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SELECTIONS FROM THE RECORDS OF THE BOMBAY GOVERNMENT.

No. XXVIII.—New Series.

CORRESPONDENCE

ILLUSTRATIVE OF THE

103325

PRACTICE OF THE PESHWA'S GOVERNMENT REGARDING ADOPTIONS,

AND THE

CIRCUMSTANCES UNDER WHICH ADOPTED SONS COULD SUCCEED TO PROPERTY HELD FROM THE STATE.

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ROYAL ASIATIC SOCIETY LIBRARY OF THE BOMBAY BRANCH OF THE

ADOPTIONS.

Memorandum placed before the Right Honorable the Governor, regarding the question as to how far Government are bound by Unrecognised Adoptions on the part of Inamdars and others holding Liens on the Public Revenue.

In reporting on an Inam in the village of Bengree, in the old Hooblee Mahal, which was claimed by Swamee Rajacharia bin Nursewacharia, as assignee of the original grantee, the Inam Commissioner gave it as his opinión that as the assignment had never been sanctioned by Government, the most advisable mode of disposing of it would be to declare that the Inam should remain alienated so long as any male heirs of the grantee might exist.

2. In reference to this opinion Government in its reply, dated the 4th April 1845, No. 1499, observed that whether an Inamdar who held his Inam for himself and his descendants could alienate it from those descendants, or could, by any transfer to other parties, deprive Government of its right to escheat should the family become extinct, was a question on which much doubt had arisen, but that in the cases coming before Government it was as well to avoid, if possible, any discussion in respect to it.

3. In a letter dated 15th April 1845,* Mr. Hart, the Inam Commissioner, observed :—

"4. It has always been, and still is a standing rule that an adoption not sanctioned by Government gives the person adopting no right to perpetuate any alienation of Government revenue; and this rule has been, even within the last few days, enforced in the case of a claim made by one Tummunacharia Pooroheet, in which it has been decided that there seems no doubt of the antiquity and uninterrupted enjoyment of the Inam; but the claimant is an adopted son, and the adoption was never sanctioned by Government. This, therefore, is, *as has always been ruled* in the cases of the Southern Muratha Country Inams, fatal to the permanency of the alienation. Now if the more solemn ceremony of adoption (which vests in the person adopted a far stronger right to the whole of his adoptive father's property than

* This letter was written with reference to the letter quoted in the preceding paragraph.

he could have obtained to it, or to any portion of it, by any other means) be in the eyes of Government an insufficient title to an Inam, it follows *à fortiori* that the less solemn transaction of sale or gift must be so; and the declaration that unauthorised *adoption* gives no claim to continue an alienation of Government revenue, after the extinction of the lineal male offspring of its original grantee, must, of necessity, involve the rule that no unauthorised *transfer* or *assignment* by the grantee or his family can create a better title.

"5. Were not this view of the question taken, the declaration of Government above alluded to would be nothing more than a declaration that the standing rule of Government regarding adoption by holders of Inams might be nullified by a simple deed of gift, making over *to the adopted* son the Inam, &c. to which the ceremony of his adoption did not entitle him; and as this would be a glaring absurdity, it can only be concluded that, according to the existing rules, an Inamdar's rights to prejudice Government by alienating in *gift* or *sale*, to a stranger, an Inam hereditary to his family, is as little to be recognised as his right to do so by *adoption*.

"6. It may be objected that thus fettering the power of an Inamdar over his freehold will have an effect unfairly injurious to his interests, by rendering his property of less value than if it were a marketable one; but it should be recollected that Government, in thus vindicating its rights, is in fact acting on behalf of the heirs whose rights the incumbent of the Inam is invading. Moreover, the non-recognition of alienations of Inam lands need not be final nor absolute; for (as in the case of adoptions) only those alienations are invalid to which Government has not, in the first place, consented, as under certain circumstances it might and ought to do.

"7. It would be easy to propose a general rule which would secure the just rights of Government, without in any way interfering with those of the Inamdars among themselves, and thus obviate all difficulties likely to beset this subject in past cases, and point out a mode of settling the question as to when and how the permission of Government to alienate could be expected for the future. But as I am not sure that Government would approve of my further pursuing this subject, I have not at present ventured to do more than submit my reasons for thinking that there are no grounds for longer entertaining the doubt expressed in your letter to the Inam Committee No. 1499, dated 4th April 1845, quoted in the margin of the 1st paragraph." (Quoted in paragraph 2 of this Memorandum.)

4. Mr. Hart was, in reply, informed on the 23rd May following, No. 2386, that "as your present duties will afford you many opportunities of observing how far and under what restrictions transfers of Inams of

all descriptions were effected and permitted during the late Government, you are requested to collect as many facts as you can during your present inquiries into Inams bearing upon this point, and submit them for the information of Government, in the shape of a report, at the end of the present year or early in A. D. 1846.

5. A suit having been instituted against Government by an individual named Krooshunrao Anunt Joshee in the Tanna Collectorate, in which the decision depended on the determination of the above question, references were made, on the 30th May 1845, to the officers indicated in the margin, in order to ascertain the practice obtaining in foreign Native States in this respect. The information sought by the reference was on the following points, viz :—

Resident at Baroda; Resident at Sattara; Resident at Indore; Agent for the Governor General for the affairs of Sindia's Dominions.

1*st*.—Whether the consent or sanction of Government was necessary to authorise the sale of an Inam, or the adoption of a son by an Inamdar or his widow.

2*nd*.—Whether Nuzur was levied on such occasions when permission was given.

6. The replies which were received from the above officers (see paragraph 5 of this Memorandum) having been communicated to Mr. Hart, to assist him in the preparation of the report called for on the 23rd May 1845, that gentleman addressed Government, on the 27th March 1847, a letter from which the following extracts are taken :—

"5. It may, I think, be concluded from the above letters, [from the officers alluded to in the margin of paragraph 5 of this Memorandum and their Assistants,] that as a general rule, among the existing Governments of India, no adoption is looked on as valid unless *previously sanctioned* by the Sirkar, and that the same restriction exists with regard to transfer of Inams by gift or sale, though frequently not enforced where the property of the Inamdar is small. The Poona records show that with regard to both transactions a similar general rule existed under the Peshwa's Government, though often relaxed in practice, owing to the remissness or dishonesty of his local officers.

"6. That the same rule, as far as it affects adoptions, was still observed, and that with increased strictness, by the officer to whose discretion the settlement of the Southern Muratha Country and Deccan was entrusted after their conquest from the Peshwa, will be evident from the proclamation* and correspondence mentioned in the five next paragraphs.

* The Acting Agent for Sirdars explains "that Mr. Chaplin's proclamation, dated 12th August 1820, as Principal Collector and Political Agent in the Southern Muratha Country, does not appear to have been issued under authority from, or with the knowledge of Govern-

"7. The following is a translation of a Jahirnama published under the seal of the Principal Collector and Political Agent in the Soobha of Dharwar :—

"*Proclamation by the Company's Government, issued at Soobha Dharwar, on the 12th August* 1820.

"'Whereas it was a fixed custom under the Peshwa's Government, that when any Desaees, Surdesaees, Deshpandes, or other Zemindars, or any Jagheerdars, Surinjamdars, Patels, Koolkurnees, Wurshasundars, Rozeendars, &c. wished to adopt heirs, they should acquaint the Sirkar, or one of its officers vested with full authority in their province, with their intention, and act, in adopting, according to his orders; and whereas, in consequence of the distance of this province from Poona, and the disturbances to which it has recently been subject, this custom has in some places been disregarded: It is, therefore, now made known to all men, that whatsoever holder of lands, Wutuns, cash, or Huks of any description under this Government, may wish to adopt a son, must represent the same at the Soobha (of Dharwar), and then, after an inquiry shall have been made into the rules of the Shasters and the usage applicable to the case, an order will be issued, which must be observed.

"'Should any one make an adoption without permission, the Sirkar will not recognise it, and the adopted son shall not be allowed to hold any Huks, &c. under Government.

"'Let all act with understanding of the above.

(Signed) "'W. CHAPLIN.'

"'*Dated at Dharwar, 12th August* 1820.'

"8. On the 25th March 1822, the Commissioner in the Deccan issued a circular* to the authorities subject to him, of which the following is a transcript, taken from the registry at Dharwar.

ment; but the propriety of publishing a notice of the kind was proposed by Mr. Thackeray, Acting Principal Collector and Political Agent at Dharwar, in his letter of the 30th of July 1820, and Mr. Chaplin, who was the Commissioner at Poona, replied in his letter of 4th August 1820 as follows :—

"For the reasons, however, stated by you, I am unwilling to set aside the adoption by the widow of the Dummul Desaee; but with a view to prevent these irregularities in future, I beg that the proclamation you recommend may be issued, and that the present indulgence be not made a precedent."

These are the proceedings which led to this proclamation.

(Signed) H. E. GOLDSMID, Secretary.

* This circular does not appear, either on reference to the Secretary's or Agent's records, to have been issued under authority, or with the knowledge of Government.

(Signed) H. E. GOLDSMID, Secretary.

"'*(Circular.)*

"'To ST. JOHN THACKERAY, Esq.,
&c. &c.

"'SIR,—It being desirable that the adoption of sons by widows should be reserved under the special control of Government in all cases, I have the honour to request that in future all petitions to this effect be in the first instance referred to me, accompanied by a statement of the circumstances of the family generally, the claims of the nearest natural relations, and the description and amount of the property of the deceased husband.

"'No adoption by widows is in future to be admitted without the express sanction of Government.

(Signed) "'W. CHAPLIN.'

"'*Poona, 25th March* 1822.'

"9. In reply to this letter, Mr. Thackeray on the 30th March 1822 wrote as follows to the Commissioner:—

"'SIR,—I have the honour to acknowledge the receipt of your instructions of the 25th instant, respecting adoptions.

"'In order to prevent the misappropriation of escheats, it is, I suppose, intended that the widows of Khooshbash inhabitants, as well as of Inamdars and Wutundars, should be prohibited from adopting sons without the express sanction of Government.

"'I beg leave to transmit a translation of an opinion lately given on the subject of adoptions by the Shastree here.

"'*Hooblee, 30th March* 1822.'

"The following is a transcript of the paper* which accompanied the above letter:—

"*Translation of Texts from the different Shastras relative to the Adoptions, with the Shastree's Answers to Queries proposed to him on this subject.*

"'*Query* 1.—Is it allowable for a widow to make an adoption without the command of her deceased husband, and has a son thus adopted the right of inheritance?

"'*Answer.*—A widow may, according to the Dhurma Shindoo Shastrum, make such an adoption. It is written in the Dhurma Shindoo, "A woman may, even without the order of her husband,

* A good deal of this paper is irrelevant to the question under consideration, but the Inam Commissioner thinks it right to quote it at length, as the Commissioner's answer (which is an important one) to Mr. Thackeray's letter was written after a consideration of it.

perform a righteous act." Nunda Pundit denies this right to the widow, who, he says, is not at liberty to do anything without the order of her lord. In the Vednyaneshwura it is written that a widow can make adoption only when this has been enjoined to her by her deceased lord. The custom of this country authorises adoption by widows; the opinion of Dhurma Shindoo must, therefore, be considered in force here, and the son thus adopted entitled to succeed.

"'*Query* 2.—In failure of heirs of a man's body, and on decease of his widow without making any adoption, are relations, such as brothers, cousins, &c. entitled to succeed? If so, on failure of them how is the property to be disposed of?

"'*Answer*.—Under such circumstances, when division of the family property has been made, the father, the brothers, the cousins, then mother's relations, ought to succeed, according to propinquity; should division not have taken place, the brother and cousins have preference to the father, who succeeds before connexions by the mother's side; when division of family property has taken place, but the sharers live together, the claim of the brother is preferable to even that of the widow. A posthumous son would, of course, have a preference to his uncle. This is the law as laid down in the Vidnyaneshwura, in which book the bestowing in charity the possessions of Vuedika Brahmins dying without heirs, and the appropriation by Government of the property of all others, is [MS. illegible].

"'*Query* 3.—State the custom under the late Government, with a few cases exemplifying that custom, as it related to Suwusthans; as also as regarding Zemindars, Patels, and Koolkurnees.

"'*Answer* 1.—In the Dummul Suwusthan Muthoorabaee adopted Sewappa after the death of her husband Vencuppaya.*

"'2.—In the Ramdroog Suwusthun Radhabaee adopted Ram Rao after the death of her husband Govind Rao.

"'3.—In the Julleehal Suwusthan Lukshmunwa adopted Powana Naik after the death of Kukapa Naik.

"'4.—The possessions of Patels, &c. were resumed if they committed grievous offences, and restored upon their paying a Nuzur. On death of the Koolkurnee in the Julleehully Talooka Hungul, the Wutun of the Koolkurnee was resumed, leaving enough for the support of the widow. The widows of Patels, &c. made adoptions after the decease of their husbands: the Koolkurnee of Oodugurry, Talooka Lukshmeshwura, was adopted in this way; the same

* Vencuppaya was hanged by the Duke of Wellington, by whose permission, sought for and granted, Muthoorabaee adopted Sewappa.

thing happened in the Nowlgoond Talooka, where the present Koolkurnee of Doodwad was adopted by the widow after the decease of her husband.

"'Sequestration of possessions of extensive Suwusthans does not appear to have ever taken place, even for heavy offences. Dunds and Nuzurs were paid, and the property, which had been withheld for a time, restored. Patels, &c. did not always meet with even this indulgence. The custom of the country certainly countenances freedom of election of sons in widows, whether of Suwusthans and Patels, &c.'

"10. To the above letter, with its accompaniment, the Commissioner, on the 21st June 1822, gave the following decisive answer*:—

"'To ST. JOHN THACKERAY, Esq.,

&c. &c.

"'SIR,—I have the honour to acknowledge the receipt of your letter of the 30th March, respecting adoptions.

"'It is intended that all adoptions by widows, whether in the case of Khooshbash inhabitants or Wutundars, should be strictly reserved under the special control of Government. But it is not intended to prohibit adoptions by widows of the former class, unless under particular circumstances.

"'The law of the Shastras may probably be found the same here as it is described in the enclosure of your letter to be in the Southern Muratha Country, but the practice was widely different, since the late Peshwa permitted adoption by widows in very few instances indeed. And it is universally admitted that in case of any sort of property emanating from Government,—as Wutuns, Inams, and everything not personal,—the previous consent of Government to the adoption by widows is indispensable to the succession of the adopted son. A more lax attention to the interests of Government in distant provinces, or from other causes, may have occasioned a deviation from this rule in the Southern Muratha Country, but, under the orders of Government, it is necessary that it should in future be attended to. The plea of religious obligation to adopt a son, either by men or women, has been proved to be entirely nugatory by several late instances here, in which persons, after having most anxiously sought permission to adopt a son, have declined it on being informed that the adopted son could not succeed to their Jagheer.

"'I have, &c.

"'*Poona*, 21*st June* 1822.' (Signed) "'W. CHAPLIN.'

* This answer does not appear, either on reference to the Secretary's or Agent's records, to have been issued under authority, or with the knowledge of Government.

(Signed) H. E. GOLDSMID, Secretary.

"11. The following circular* was issued by the Commissioner on the 17th October in the same year, the copy here quoted being that addressed to the Principal Collector of Dharwar :—

"'*(Circular.)*

"'To ST. JOHN THACKERAY, Esq.,
&c. &c.

"'SIR,—In addition to the restrictions already in force regarding adoption by widows, I have the honour to request that in all ordinary cases, even where the claim of the widow shall be found in other respects admissible, she be required to prove that her husband had either himself declared his intention to make the adoption proposed, or had desired her to adopt. This principle is to be observed as a general rule, subject to such special exceptions as Government may see fit to authorise.

(Signed) "'W. CHAPLIN.'

"'*Poona, 17th October* 1822.'

"12. It is thus evident that the Commissioner, who was acting with full powers in the conquered territories, fixed it as a rule, to be invariably observed in the Southern Muratha Country, that no adoption, especially by a widow, was to be recognised, unless made with the express sanction of Government previously obtained.

"13. I have not the means of knowing whether Government has adopted regulations of such stringency for other provinces, but conjecture, from the tenor of the 64th paragraph of a letter, No. 9, from the Honorable the Court of Directors to the Bombay Government, dated 23rd June 1839, and quoted in the foot-note,† that the question of adoption by the widows of Inamdars has been under discussion in a general point of view, not restricted to only the territories conquered from the Peshwa; and that the result has been the approval of a general rule as stringent as that alluded to in the last paragraph. At any rate, it appears certain that no orders have ever been issued to modify or relax those prescribed for this part of the country in the

* This circular does not appear, either on reference to the Secretary's or Agent's records, to have been issued under authority, or with the knowledge of Government.

(Signed) H. E. GOLDSMID, Secretary.

† "'64. The opinion of the Revenue Commissioner, founded on reports received from the various Collectors, was that the custom of allowing widows to succeed to the Inam in the event of the husband dying without male heirs, was fully established and recognised under the Native Governments, but that she was not at liberty to adopt an heir without the express sanction of Government, and in default of such adoption the Inam at her death reverts to the State.'"

proclamation and Commissioner's letter above quoted, which are, apparently, applicable to all holders of alienations of Government revenue, of whatever denomination.

"14. This rule of refusing to recognise adoptions, made without the consent of Government previously obtained, is by no means an obsolete one, but seems to have been generally enforced, at all events in this province.* But Government has not been equally decided in its opinion of transfer of Inams by gift or sale,† though I think it is capable of entire demonstration that at least as stringent a restriction should be placed on transactions of this nature as on adoptions.

"15. For if Government were to admit the right of an Inamdar to sell or give away his Inam, it would wholly annul the rule regarding adoptions, which, as has been seen above, it has hitherto insisted on, since an Inamdar need then only execute a deed of gift to his adopted heir in order to evade it. The adopted son would thus obtain possession of the Inam as an assignee, instead of inheriting it by virtue of his adoption, and the object of Government in discountenancing the latter ceremony would be defeated.

"16. This is such an obvious fact that it seems unnecessary to write more regarding it than to refer to my former letter on the subject, No. 133, dated 15th April 1845. ‡ Should Government be satisfied, after considering the additional matter now stated, that if transfers of Inams, &c. by adoption are to be subject to control, so also *à fortiori* must transfer by sale or gift, I shall beg for permission to submit for its consideration a rule by which the objects alluded to in the 7th paragraph of my letter above cited (No. 133) may be ensured, and the question as to the circumstances under which an Inamdar may be permitted to transfer his property by sale, gift, or otherwise, be placed on a less uncertain and unsatisfactory footing than at present."

7. Mr. Hart was informed, in the Government reply of the 30th September 1847, that the general tenor of the replies to the references made to the several Political Officers and Residents with Native States

"leaves no doubt on the mind of the Honorable the Governor in Council as to the correctness of the conclusion arrived at by you, that the previous sanction of the ruling authority is requisite to the validity of adoptions or alienations by Inamdars, in as far as they may affect property deriving its origin from the State.

"2. The Governor in Council is, therefore, of opinion that this

* See paragraph 4 of the Inam Committee's letter to Government No. 133, dated 15th April 1845, quoted in paragraph 4 of this Memorandum.

† See paragraph 2 of Government letter No. 1499, dated 4th April 1845, to the Inam Committee, quoted in paragraph 2 of this Memorandum.

‡ See paragraph 3 of this Memorandum.

principle should be formally declared and acted upon as the rule for future guidance, and he desires me, accordingly, to request that you will prepare and submit for the consideration of Government a rule of the nature contemplated in the 7th paragraph of your letter of the 15th April 1845, for regulating the exercise of this prerogative." (See paragraph 3 of this Memorandum.)

8. In obedience to the above instructions, Mr. Hart submitted, on the 29th March 1848, a draft of Rules for "regulating the manner and degree in which adoptions and alienations of Inam, &c. are to be recognised, on the part of Government, by its ministerial officers."

9. In the communication submitting these Rules, Mr. Hart observed :—

"5. The records of the Hindoo Government, to which ours has succeeded, show that the sovereign carried his interference with adoptions so far as not only to withhold his sanction from adoptions which he was not disposed to recognise, but to forbid the very ceremony, and even to order the repudiation of a child unauthorisedly adopted. But it seems to me that under our Government such a degree of interference as this would be unnecessary, impolitic, and unbecoming."

"11. The Rules which have occurred to me as advisable to regulate the exercise of the prerogative of Government with regard to adoptions and assignments consist of two kinds,—*first*, those which should be promulgated for the information of the public; and *secondly*, those which seem necessary for the guidance of the officers of Government, to enable them to give effect to the promulgated Rules with as much uniformity of procedure as may be possible. Separate drafts of such sets of Rules are now submitted. If approved of by Government, they might at once be introduced in the Southern Muratha Country, to test the manner of their working; but until this is apparent, Government should, of course, refrain from pledging itself to their perpetuation."

10. Copy of the correspondence (see paragraph 3 of this Memorandum) on this subject, commencing with the Inam Commissioner's letter of 15th April 1845, was furnished to the two Revenue Commissioners, with the Government letter of 24th April 1848, and their deliberate opinion requested on the Rules submitted by Mr. Hart. (See paragraph 8 of this Memorandum.)

11. On the receipt of their replies, the Rules were adopted, with such modifications suggested by them as were approved of, and such others as appeared to Government to be desirable: as they were to be introduced in the first instance into the Southern Muratha Country rather as an experiment than a final measure, the Revenue Commis-

sioner Southern Division was requested to give them immediate effect in the part of the country for which they were, in the first instance, to be made applicable:—

12. The following are extracts from such portions of the Rules as bear on the question of adoptions to Inams:—

"Whereas, according to the established custom of the late Government, continued in the Southern Muratha Country by the present Government, under a proclamation issued at Dharwar on the 12th August A. D. 1820,* the permission of the Sirkar was requisite to make any adoption complete, Government hereby declares its resolution to suffer no relaxation of this ancient established rule. But to show those persons who possess Inams or property of any denomination emanating from the State, and who adopt with the intention of continuing further than their own lines the possession of such property, how far the consent of Government is requisite for such continued possession, the following Rules are published:—

"ADOPTIONS.

"I. No adopted son will be recognised as having, by virtue of his adoption, a right to the possession of any property of any kind held from the State, unless the sanction of Government has been obtained previous to his adoption, and the regular Nuzur paid for it in cases where such is receivable by Government.

"II. When Government sanctions any adoption, it will do so on the assumption that such adoption is in conformity with the religious law and caste usages of the applicant, the customs of his family, and the rights of all other parties: should the party adopting by the adoption infringe such law, usages, customs, or rights, he will do so at his own peril. The sanction of Government is merely a declaration that Government has no objection of its own to the adoption of a certain person as a son by the applicant.

"III. The sanction of Government, when obtained, does not create any title which did not exist before, nor render valid one which was previously invalid; so that if it be found, after an adoption has been sanctioned, that Inams, &c. are held without just title, they will be resumed by Government, notwithstanding they may have passed to the adopted son, or to any one holding from him.

"*Adoptions.*

"I. Residents at Foreign Courts, Political Superintendents, and Agents and Collectors, under the control of the Bombay Government, should receive for examination all petitions made by persons belong-

* See paragraph 1 of Mr. Hart's letter quoted in paragraph 6 of this Memorandum.

ing to their jurisdictions, for the sanction of the Honorable Company's Government, to adoptions.

"II. Each petitioner for sanction to adopt should be required to furnish with his petition the following statements:—1*st*, a genealogical statement of his family, showing the original grantee of each of his Inams, &c., and explaining the claims of all persons then living upon them; 2*nd*, a schedule of his estates and their value, classifying separately (1) his Inams, allowances, &c., held under the Honorable Company's Government in Khalsat Mahals; (2) his Inams, &c. held in Surinjam Mahals—distinguishing those which are grants by the Surinjamdar from those which are held independently of him and under Government; (3) those held under independent potentates. These schedules should next be referred for verification and inquiry to the officers in charge of the districts where the Inams, &c. held under Government are situated; and the amount of Nuzur, if any be receivable by Government on account of them, in case the sanction is given, should then be calculated by the ordinary scale.

"III. The officers above mentioned should refer each application, and the result of their preliminary inquiries, provided for in Rule II., to Government, by whom all cases will be decided."*

13. The proceedings of Government on this subject were reported to the Honorable Court on the 27th February 1849, and the subjoined is an extract from their reply of the 27th February 1850:—

"5. We have thought it necessary to refer the question involved in these proceedings for the opinion of the Government of India."

14. Under date the 25th July 1851, the subjoined communication was addressed to Government by Mr Hart, the Inam Commissioner:—

"With reference to the Government circular [copied below in paragraph 22 of this Memorandum] dated 25th October 1831 (copy sent to the Political Agent at Dharwar, numbered 1549 of 1831 in the Political Department), conveying some instructions regarding the recognition of adoptions, I have the honour to beg for some further information.

"2. The rule laid down by the 2nd paragraph of the circular specifies, as essential to the adoptions to be admitted, that they should have been made 'with such forms *and sanctions* as may have been usual.' I observe that persons who claim Inams in consequence of adoptions have already commenced to disregard the latter of these conditions, and to argue that if they have been adopted according to their religious law, the Government is, by the letter above cited,

* The Revenue Commissioner Southern Division was informed by Government, on the 18th January 1851, that these Rules were to supersede all former Rules in the Southern Muratha Country.

bound to respect their adoptions. To me it seems that *the sanction of the Sirkar or ruling authority, obtained previous to adoption*, being throughout India regarded as a necessary condition, its necessity is *insisted on*, and not overruled, by the Government circular in question.

"3. The Government of Bombay has lately collected evidence throughout the whole of India [see paragraph 5 of this Memorandum] which has conclusively proved that the previous sanction of Government has always been one of the usual sanctions, and an indispensable one in an adoption made for the purpose of binding Government to continue to the adopted son any property emanating from the State. This, however, is not a fact lately discovered (though lately corroborated); it was known and insisted on for years before the date of the circular of 1831, as it has been since that period.

"4. It seems, therefore, impossible to regard the above circular as *itself* containing a sanction which is one of those, the *previous* existence of which it declares essential for the present recognition of an adopted son's right to succeed to an Inam. To suppose otherwise would be to suppose the letter as contradictory in its own terms as it certainly would be inconsistent with the standing customs of the country and of Government.

"5. The circular seems to me intended merely to convey information that Government, as a general rule, admits the right of succession in an Inam by a son adopted with the usual forms and and sanctions (including the sanction of the *Sirkar*); but that (besides its previous sanction for the *adoption*) the subsequent express order of Government is necessary regarding each of the tenures of a political nature (viz. Jagheers), especially under the superintendence *of the officers* addressed. It is, I think, simply a warning to *them* to be careful of the interests of Government with respect to the Jagheers under their charge, and is neither addressed to those officers (Collectors) who had to do with mere Inamdars, nor (if it were so) would it prescribe any change in *their* procedure.

"6. With this view of the case, all *Inams* of every adoptive father may, without further reference to Government, be continued, under the circular of 1831, to an adopted son who can prove that he was adopted legally, and with 'the usual sanctions,'—including the sanction most usual and most indispensable, viz. that of the Sirkar; but a *Jagheer* cannot be given up, even after such proof, without further reference from each of the political authorities within whose jurisdiction the several portions of the adoptive father's Surinjams, &c. may be situated, and the express orders of Government as to what portions of them it is intended to continue, and on what conditions.

"7. I have the honour to request instructions as to whether or

not I rightly interpret the meaning of Government in the circular to which I refer."

15. The circular of 25th October 1831, quoted in the 1st paragraph of the preceding letter from Mr. Hart, was issued by Government under the following circumstances.

16. With a letter addressed to the Commissioner in the Deccan, under date the 28th December 1824, Captain Robertson, then Collector of Poona, submitted two petitions from Anoopoornabaee and Luxmeebaee Athgurrey, in which they each claimed the privilege of adopting a son; and as the continuance of some Inam grants was dependent on the permission granted to either, Captain Robertson deemed it advisable to solicit Mr. Chaplin's decision whether either and which of them should be allowed to adopt a son.

17. In reply to a letter from Mr. Chaplin, dated 18th January 1825, requesting to be informed of the value of their Inams, and whether the petitioners had any collateral heirs to whom the Inams would devolve in default of an adoption, and if so, whether they consented to allow of an adoption being made by the widows, Captain Robertson replied, on the 18th February 1825, that the Inams held by the Athgurrey family were those specified below, and that there were no collateral heirs who had any claim to the Inams in default of an adoption by one of the widows:—

The village of Dapooree, valued at	Rs.	400	per annum.
The village of Neerey, valued at		700	„
30 beegas of land at Kirkee		30	„
The Mokassa of Dharja.....		40	„
In all.....	Rs.	1,170	per annum.

18. Copy of the correspondence quoted above was, under date the 21st February 1825, submitted by the Commissioner for the consideration and orders of Government, and it was decided in Mr. Chief Secretary Newnham's reply of the 4th March following, that "Inam lands being private property, it is desirable that the owner should be enabled to dispose of them as he pleases"; but as there might be danger in hastily altering an established practice, the Commissioner was requested to ascertain from Captain Robertson the established practice which existed throughout the country before and during the reign of the late Peshwa, both as to disposing of Inams by will and as to adoptions in such cases by widows.

19. The Commissioner accordingly submitted to Government, on the 19th May 1825, a letter in which the Collector of Poona stated (18th May 1825) that "during the Muratha rule the holders of Inams could dispose of them by will, in sale, or in any way they chose. In Bajee Rao's time,

the permission granted to widows to adopt sons was rare, but this originated in the apparent propriety of obliging the people to adopt the course which in Bajee Rao was rendered personally expedient in regard to the succession to the Musnud. Since it is in the power of widows or any description of holders to give away their Inam land, there seems to be no good reason for hindering them from securing it to an adopted son, or for obliging them to resort to any other mode of disposing of it not congenial with their inclinations."

20. In their reply of the 3rd June 1825, Government concurred in the adoption of the child by the widows in question, and admitted as a general rule in the Deccan, that "children adopted with such forms and sanctions as may have been usual should succeed to Inam lands, or whatever may be considered private property."

21. In a Minute which was, under date the 14th October 1831, recorded by Lord Clare, the then Governor of Bombay, in the Political Department, it was observed that,—

"From several papers which have lately come before me it appears that the Collectors do not exactly know in what cases Government allows adoptions, and misconception on this subject has, I believe, arisen from the late discussions respecting a Nuzurana: to remove all doubt I think that the instructions of Government dated June 3rd 1825 should be re-published for the information of the Collectors and all concerned." (See paragraph 20 of this Memorandum.)

22. This Minute having been concurred in by the other Members of Government, the circular (referred to by Mr. Hart in his letter quoted in paragraph 14 of this Memorandum) given below was issued, under date the 24th October 1831:—

"*Circular No.* 1549.

"To ————.

"It having come to the knowledge of Government that some doubt exists as to the particular cases in which adoptions are allowed, I am directed by the Right Honorable the Governor in Council to communicate to you the following instructions for your guidance.

"2. As a general rule, in the Deccan, Government admits that children adopted with such forms and sanctions as may have been usual should succeed to Inam lands, or whatever may be considered private property.

"3. With regard to Jagheers, no adoption can have any effect, unless it is expressly so declared by Government.

"I have the honour to be, &c.

(Signed) "W. Newnham, Chief Secretary."

"*Bombay Castle, 24th October* 1831."

23. Copies of the papers alluded to above were obtained from the Agent for Sirdars, in consequence of their not being traceable on the records of Government, having at some time or other been taken out and never restored.

24. As Government considered it of importance that they should have before them the proceedings, including the Minutes of Council, which led to the Government order No. 690, of 3rd June 1825 (see paragraph 20 of this Memorandum), being written, the numbers, &c. of the missing vouchers were communicated to the Honorable Court on the 16th October 1851, and they were requested to furnish copies from the diary sent to them. The Honorable Court forwarded, with their despatch of the 18th February 1852, copies of the letters noted in the margin (transcripts of which had already been furnished by the Agent for Sirdars), but not of the Minutes of Council which led to the Government order of 3rd June 1825 being written.

Letter from the Commissioner in the Deccan, dated 19th May 1825, with enclosure, being a letter from the Collector of Poona, dated 18th May 1825.

Government reply to the Commissioner, dated 3rd June 1825.

25. Transcripts of the papers received from the Honorable Court were sent to Mr. Hart, with reference to his letter of 25th July 1851, No. 3252.

26. In a Minute recorded under date the 3rd October 1850, on a transfer from the Political Department No. 3953, dated 23rd August 1850, relative to the resumption of the village of Bhatta, in the Surat Collectorate, the Honorable Mr. Willoughby stated :—

> "There can be no doubt that the village of Bhatta was granted for the purposes specified in the deed of grant, which purposes are opposed to the right of alienation, and all chance of such grants reverting to the Government which made them is destroyed if alienation is admissible. I think the case is a very proper one to be submitted for the consideration and instructions of the Government of India."

27. The Honorable Mr. Blane, however, observed in a Minute (dated 9th October 1850) written on the same transfer, that—

> "The question at issue would seem to be under reference to the Government of India from the Honorable Court,—vide their despatch No. 2, of 27th February 1850, paragraph 5, [quoted in paragraph 13 of this Memorandum,] and we may, therefore, I think, await the Honorable Court's instructions previously to taking any further steps in the matter."

28. It was finally resolved, at the suggestion of the Right Honorable the Governor, in a Minute dated 16th October 1850, concurred in by the Honorable Messrs. Willoughby and Blane, to address the Honor-

able Court and the Government of India on the subject. The following are extracts from the Minute in question:—

"It would, perhaps, be as well to forward the Honorable Court copy of our proceedings in the Revenue and Political Departments relative to the village of Bhatta, and to request that they will favour us with early instructions on the subject adverted to in paragraph 5 of their despatch of 27th February last, No. 2.

"In forwarding the Government of India copy of our despatch to the Court, we should again request their early attention to the subject."

29. An application was, accordingly, made to the Honorable Court, under date the 29th October 1850, for their "early instructions on the subject adverted to in paragraph 5 of your revenue despatch No. 2, dated the 27th February last." (Regarding the right of Inamdars to alienate their Inams by adoption or sale, without the previous consent of Government). Copy of this application was on the same date sent to the Government of India.

30. In paragraphs 8 and 9 of their reply of the 10th December 1851, No. 13, the Honorable Court intimated to this Government that,—

"8. We have not received from the Government of India a reply to the reference made to them for their opinion as to the right of Inamdars to alienate their Inams by adoption or sale without the previous consent of Government, and we are, therefore, not prepared to issue any instructions on the general question.

"9. In the present case, however, it appears from the Sunud that the village of Bhatta was granted in Inam by the British Government to Ramjee Appajee and his heir, for the specific purpose of providing him and his family with a place of abode and the means of support, and that, consequently, on the family becoming extinct, the village would, as a matter of course, revert to Government."

The above extracts from the Honorable Court's despatch were, on the 11th March 1852, sent to the Government of India, to the Political Department, and to the Inam Commissioner.

31. In a further despatch in the Political Department, dated 14th January 1852, No. 7, the Honorable Court observed, with reference to a decision by this Government in that department refusing to recognise an adoption by an inhabitant of Poona as conveying a right to any property which would otherwise lapse to the State, that—

"Your decision in this case rested on the principle of not recognising adoptions as conferring a claim to Inam or Wutun unless on grounds special to the individual case. This decision should be subject to any enactment which may hereafter be passed by the Legislature of India for regulating the succession to Inams."

32. Under date the 22nd August 1845, Rugoonath Sudasew presented a petition to Government, praying to be recognised as the adopted son of his late uncle Sudasew Trimbuk, Deshpandia of Nassick.

33. The petition having been referred for the report of Mr. Langford, then Collector of Ahmednuggur, that officer, under date 30th September 1845, submitted to Government a letter from the Sub-Collector of Nassick, from which it appeared that a similar application had been made by Rugoonath Sudasew to the latter officer on the grounds of his having been adopted by his uncle Sudasew, but that it was not complied with, "as the adoption had not been sanctioned by Government; but he succeeded in his own right as next heir, being the eldest son of the younger brother of Sudasew Succaram, also deceased."

34. Both the Collector and Sub-Collector, however, saw no objection to the adoption being sanctioned in this instance.

35. As, however, the petitioner had a claim on the Wutun, whether as the son of his real or his adoptive father, Government recognised the adoption, but requested the Collector to instruct the Sub-Collector of Nassick to warn the Zemindars against allowing such adoptions without the previous sanction of Government, as in future they would not be recognised, and those concerned would be considered as guilty of a breach of their official duty.

36. The above proceedings having, under date the 24th December 1847, been reported to the Honorable Court, were approved of in paragraph 22 of their despatch No. 14, dated 13th September 1848; but the Honorable Court deemed it "desirable that a general notification should be issued, warning the hereditary district and village officers that adoptions made without previous sanction will not be held to convey any claim to the succession to their Wutuns."

37. The preceding extract from the Honorable Court's despatch was sent to the two Revenue Commissioners, who were requested, in conjunction with each other, to submit for the approval of Government a draft of the notification therein ordered to be promulgated throughout the several Collectorates under their control.

38. The Revenue Commissioner Southern Division replied to the above reference on the 6th December 1848, by referring Government to his letter No. 2408, of 9th August 1847, (see paragraph 11 of this Memorandum,) in which he "endeavoured to show that under the Peshwa's Government, the existing Native Governments of Western India, and the British Government, the right of the supreme power to permit or prevent adoptions, as regards inheritance of official rights of every description, has always been asserted and never questioned."

39. Mr. Townsend further observed, that "should Government admit this testimony, they may be of opinion that the issue of a proclamation

now to the effect proposed would be tantamount to an admission that the right had not previously existed, and that it would afford grounds for claims to inheritance by adoption without the sanction of Government, previous to the date of this proclamation, as a right."

40. Mr. Townsend's observations were concurred in by Government in their Minute of the 1st January 1849, in which it was observed that "if any notification is published, it should be as a warning that such is and ever has been the rule, and not that such will be the rule hereafter; but before giving any final orders, we may await the report of the Revenue Commissioner Northern Division."

41. The Revenue Commissioner Northern Division has now replied to the reference made to him. Mr. Fawcett requests to be informed whether the draft of the notification is still expected from his department, or the intention of Government of issuing a proclamation of the kind is superseded by the Rules (regarding adoptions by Wutundars) proposed by Mr. Hart, the Inam Commissioner, in his letter to Government No. 3035, of 16th January 1851, and approved of by Government in their letter No. 1343, of 14th February 1851.

42. On this letter the Right Honorable the Governor (with whom the Honorable Mr. Bell has concurred) has observed, that if the Rules are made generally known—and the Revenue Commissioners should see that they are—by the Collector, the publication of any special notification would appear to be unnecessary.

But the Honorable Mr. Warden has given it as his opinion, that—

"Until the Government receives the final orders of the Honorable Court of Directors, to be issued after hearing from the Government of India, [see paragraph 30 of this Memorandum,] it cannot be even said to be the rule that adoptions to the inheritance of Inams (the power to sell which proves them to be private property) require sanction.

"On the 3rd June 1825 this Government, in a letter to the Commissioner in the Deccan, 'admits as a general rule in the Deccan, that children adopted with such forms and sanctions as may have been usual, *should succeed to Inams or whatever may be considered private property.*'

"'With regard to Jagheers,' the Government adds, 'no adoption can have any effect unless it is so expressly declared by the Government.'

"The letter from which I quote, and which was always familiar to me as containing the principles on which we settled the Deccan, the previous proclamation of a Principal Collector notwithstanding, has just been sent to this Government by the Honorable Court, [see paragraph 24 of this Memorandum,] and I certainly consider that it will

be a violation of the terms conceded to the people of the Deccan at the conquest to lower the standard of Inams to that of Jagheers, and resume them from sons adopted without sanction."

43. With his letter of the 4th March 1852, the Agent for Sirdars has submitted a memorandum from Ambabaee and Geerzabaee, widows of Sheoram Gopal Raja Bahadoor of Malligaum, soliciting the continuance of certain Wutuns, Inams, and Babs, to their adopted son, Gopal Rao.

44. In forwarding the above memorandum, Mr. Brown states that—

"The late Chief of Malligaum held certain Wutuns, Surinjam, and a pecuniary allowance of Rs. 7,000 per annum granted in commutation of Umuls within the town of Malligaum. The Collector of Khandeish informs me that the Wutuns have been continued to the widows, and that the pecuniary allowance has been discontinued. The Surinjam has lapsed to Government on failure of direct heirs, and I have on the 28th ultimo submitted, for the sanction of Government, a statement of pensions to be granted to the family and dependents of the late Chief.

"3. The claim to the pecuniary allowance of Rs. 7,000 is the only question which would seem to require the decision of Government, and I beg to annex copy of a correspondence on the subject, as noted in the margin, and a translation of the Sunud issued to Raja Bahadoor by Captain Briggs, Political Agent in Khandeish, on the 8th March 1820. From these documents Government will perceive the tenure on which the pecuniary allowance was granted as equivalent for the Umuls in Malligaum retained by the British Government."

45. In a Minute (concurred in by the Honorable Mr. Bell) recorded on this case under date the 13th March 1852, the Right Honorable the Governor stated it as his opinion that "the adoption not having been recognised, the pecuniary allowance of Rs. 7,000 cannot be continued to the son," and that "whether it is to be continued to the widows for life must depend,—

"1*st*.—On the tenure on which the emoluments, in lieu of which the allowance was granted by Captain Briggs, were held.

"2*nd*.—On the question whether the pensions awarded from the Political Department have been fixed, or are to be fixed with reference to the probability of the allowance of Rs. 7,000 being continued during the lifetime of the widows. In other words, would the amount of pensions be greater on less according as the pecuniary allowance is or is not to be continued ?"

On the latter point His Lordship has suggested—"information should be obtained from the Political Department before any inquiry is made as regards the former."

46. In his Minute dated the 18th March 1852 the Honorable Mr. Warden has observed that—

"The confirmation or otherwise of the adoption affects the question of the continuance or otherwise of the *Surinjam* only.

"The pecuniary payment is distinctly stated in the title-deed to be an *hereditary* grant in lieu of *Wutuns* ceded in exchange, and must, I apprehend, descend, as a matter of course, to the adopted child."

47. Upon this, the following Minute has been recorded by the Right Honorable the President under date the 22nd March 1852, subscribed to by the Honorable Mr. Bell:—

"Assuming that the right as Wutunee is clearly established, it by no means follows we need recognise the adoption. The permission of Government is necessary before an adopted son can succeed to property held from the State."

48. In a further Minute, dated 25th March 1852, the Honorable Mr. Warden has remarked,—

"Some correspondence between this Government (when Mr. Elphinstone presided) and the Commissioner in the Deccan has been received by the last Mail from the Honorable Court of Directors on this very point, and to which it might be well to refer before disposing of this case." (See paragraph 24 of this Memorandum.)

49. Venaik Wassoodeo Josee Chiploonkur petitioned Government on the 10th March 1852, intimating his having adopted a son. In reporting on this petition, the Collector of Poona observed that "under Section I. of the Rules forwarded to the Revenue Commissioner Southern Division with letter No. 1213, of 20th February 1849, [vide paragraph 12 of this Memorandam,] petitioner should have obtained the sanction of Government before the adoption, which he does not appear to have done."

50. The Right Honorable the Governor has suggested (Minute dated 22nd March 1852, concurred in by the Honorable Mr. Bell) that—

"The Collector should be informed Government cannot dispose of the case in the summary manner he appears from his report to contemplate.

"Government wish to know whether there is any objection to the recognition of the adoption on the part of the co-sharer; also whether, in event of the adoption not being recognised, petitioner's share will on his demise lapse to Government.

"Sufficient inquiry should be made as to the title by which the land is held to enable Government to determine whether there is

primâ facie evidence of the tenure being such as to entail the necessity of Government continuing the land beyond the lives of present incumbents.

"The extent and survey valuation of the land should also be stated."

51. The Honorable Mr. Warden has stated his opinion (Minute dated 25th March 1852) that in the case of Inams it is not necessary to the validity of an adoption that it be sanctioned.

52. In his letter No. 90, dated 26th February 1852, the Commissioner at Sattara has brought to the notice of Government that—

"The widow of Myput Rao bin Janajee Gorpuray has presented a petition, praying that she may be allowed to adopt one of the three sons of her husband's brother, Dondjee, to inherit her fourth share of 7 beegas 14¾ pands of land, yielding Rs. 34-2-9, granted in Inam by the late ex-Raja of Sattara, on the 7th July 1826, jointly to his relations Myput Rao and his brother Dondjee, and Mokoonda and Krushnajee bin Bapoojee Goojur.

"2. Dondjee and his three sons are heirs at law, and the adoption, if permitted, would have the effect of eventually distributing the half share of the Inam among the sons, Dondjee [s. o.] in proportions of one quarter and two-eighths, instead of three-sixths, to which there does not appear to me to be any objection."

53. The following Minute has been recorded on this letter by the Right Honorable the Governor, with whom the Honorable Mr. Bell has concurred:—

"Inheritance of the deceased Myput Rao's share by the nephew, whom his widow proposes adopting as a son, allowed."

The above Minute has been subscribed to also by the Honorable Mr. Warden, who has, however, remarked—"she was, I imagine, entitled to adopt to the inheritance of an Inam without permission."

54. In a report made under date the 22nd March 1852, on a petition presented to Government, on the 27th February 1851, by one Huree Anunt Hurdeekur, the Collector of Tanna stated,—

"The land claimed by petitioner was enjoyed by Anunt Bhut bin Gunesh Bhut Hurdeekur, who having died on the 4th January 1850, it was ordered by the late Collector, Mr. Law, to be resumed, which has been done.

"2. It is true, as stated by the petitioner, that Anunt Bhut, previous to his death, had petitioned for the continuance of the land in question to his adopted son, the petitioner; but his request was nega-

tived by Mr. Law, on the ground of the adoption not having been sanctioned by the ruling power.*

"3. The Collector sees no cause to recommend interference with the above decision."

55. The Right Honorable the Governor has proposed that the petitioner be informed that his application cannot be complied with; but the Honorable Mr. Warden has, in a Minute dated 6th April 1852, stated,—

"I am not aware that the adoption to inheritance to Inams requires sanction. To require such sanction is contrary to established usage, as recognised in the Deccan by Mr. Elphinstone."

56. In a petition presented to Government under date the 19th March 1850, one Narayen Bhut bin Gopal Bhut Kurvey stated that he was the adopted son of one Gopal Bhut Kurvey, who held as hereditary Inam the village of Nandoor Dussuk, Talooka Nassick, and prayed to be allowed to enjoy the same. Petitioner admitted that the adoption was not sanctioned by Government, but that "it took place under the impression, from the circular of 1831, that Inam should be considered as private property, and should revert to the adopted sons as private property." (Vide paragraph 22 of this Memorandum.)

57. This petition was referred by Government to the Revenue Commissioner Southern Division, who, in his report of the 19th June 1851, stated,—

"2. Petitioner admits that his adoption (which occurred at Benares) did not take place with the permission of Government, as the obtaining of such permission was considered unnecessary. His Agent likewise has deposed on solemn affirmation that the adoption did not receive the sanction of the ruling authority; but asserts that it occurred in the year 1830, before promulgation of the orders of 25th October 1831, No. 1549 [quoted in paragraph 22 of this Memorandum]. The village of Nandoor Dussuk, however, has continued under attachment by the Sub-Collector of Nassick, pending the production of *proof* of the adoption.

"3. But it will be observed from the accompanying letter from the Acting Collector of Poona, dated the 11th instant, No. 1380,

* *Government Circular dated 19th November* 1842, *No.* 3368.

No. 3368 OF 1842.

To the COLLECTOR OF DHARWAR.

SIR,—I am directed by the Honorable the Governor in Council to acquaint you that adoptions without the sanction of the ruling power at the time, by parties in the enjoyment of hereditary Wurshasun allowances, cannot be held to convey any right to such Wurshasuns.

I have, &c.

Bombay Castle, 19th November 1842. (Signed) L. R. REID, Chief Secretary.

that by virture of his adoption, petitioner, with two other adopted sons of the Kurvey family (Rugoonath Bhut and Gunesh Bhut), have been, and now are in possession of shares in the villages of Oorsee and Kurrungaum in the above Zilla, and also that the village of Nandoor Dussuk, alluded to in the petition, was in the same way *shared* by the family.

"4. The adoption of Rugoonath Bhut and Gunesh Bhut would seem to be equally questionable and deserving of investigation with petitioner's. The former's adoption is stated to have been solemnised at Benares in 1828, and the latter's in 1839, both without the sanction of Government; and the Agent states that he has no proof of the incumbent's titles by adoption, excepting the fact of their possession of their shares.

"5. It appears to the Revenue Commissioner that petitioner's argument as to the relative date of the adoption and the circular of October 1831 is not material; this circular appears to him simply an announcement of the views of Government on the subject, which were, apparently, acted on before it was thought necessary to issue the circular.

"6. On the general facts not only is there deficiency of information as to whether the forms alluded to in paragraph 2 of the circular quoted were observed, but there is not even proof that the adoption took place at all, further than the assertion of the party interested.

"7. If petitioner's adoption is to be rejected, the Revenue Commissioner is respectfully of opinion that the decision must affect his title to possessions in the Poona Collectorate also; and that the Inams inherited by adoption by the other parties (Rugoonath Bhut and Gunesh Bhut) are in a similar predicament. The Revenue Commissioner would, however, beg to suggest, before any final orders are issued in the case, that the Collector of Poona call on each of the parties above named for distinct proof of his adoption, referring, if necessary, to the authorities where it is stated to have taken place; and that, pending the production of such evidence, the villages of Oorsee and Kurrungaum be attached likewise."

58. The Revenue Commissioner's report was on the 1st July 1851 forwarded for the report of the Inam Commissioner.

59. Another petition, which was in the mean time received from Narayen Bhut Kurvey, having on the 7th November 1851 been referred to Mr. Hart, that gentleman stated, in his reply of the 2nd December following, that "as the petitioner's claim will be affected by the decision of Government on the question submitted in the Inam Commissioner's letter No. 3252, dated 25th July 1851, (quoted in paragraph 14 of this Memorandum,) he has been obliged to delay, pending the

receipt of that decision, his report on the petitioner's case, called for in the Government memoranda Nos. 6842, 6972, and 9107 of 1851."

60. On this report the following Minute was recorded by the Honorable Board, under date 22nd December 1851:—

"This must await the receipt of reply to Government letter No. 160, of 16th October 1851, to the Honorable Court. The petitioner to be informed that his application is under consideration." (See paragraph 24 of this Memorandum.)

61. This was communicated to the petitioner in Government letter No. 21, dated 2nd January 1852, and the petitioner has again addressed Government on the subject in his petition of 1st April 1852.

62. Mr. Hart has now replied (letter No. 583, dated 20th April 1852) to the reference made to him on the 1st July 1851 (see paragraph 58 of this Memorandum) by stating that—

"It will be wholly impossible to come to any correct conclusion as to what course ought to be pursued with regard to the village of Nandoor Dussuk, until Government shall have given a determinate decision on two questions,—1*st*, whether or not the tenor of the Government circular No. 1549 of 1831 (dated 25th October 1831) is to be regarded as doing away with the necessity of an Inamdar obtaining the previous sanction of Government for the adoption of a son by whom he wishes his Inam to be inherited; and 2*nd*, if so, whether or not the circular letter in question is to be regarded as cancelled.

"2. On this subject, I had the honour of making a reference to the Chief Secretary, No. 3252, dated 25th July 1851 [see paragraphs 14 and 25 of this Memorandum]. But your reply, No. 2374 of 1852, dated 5th current, leaves me still in doubt; for if, as I understand the result of the political consultation of the 8th June 1825, an extract from which has been sent with your memorandum for my information, all Inams must of necessity descend to adopted heirs, even those to whose adoption Government had given no previous consent, then the universal practice not only of this Presidency, but of the rest of India, as recognised in Mr. Secretary Lumsden's letter No. 3833, dated 30th September 1847, [quoted in paragraph 7 of this Memorandum,] has been inconsistent with this Rule.

"3. The proceedings of this Government and of the Honorable Court of Directors, whenever they have involved this question in any case, appear to have been invariably based on the principle that the sanction of Government, declared previous to adoption, has ever been requisite to give an adopted son any right to inherit an Inam or *any* other property emanating from the State.

"4. This principle is one which has been observed for a long

series of years; its universality has been proved by reference to all the Native States in India, and its enforcement has been ordered by rules drawn up after long and careful deliberation on the part of Government and the Honorable Court; while, on the contrary, the principle which I (perhaps erroneously) deem to be embodied in the proceedings which accompany your memorandum No. 2374 appears to have been first enunciated on the 18th May 1825 by Captain Robertson, (who was mistaken in the supposed facts on which he grounded it,) to have been submitted without more investigation than he could have made in *one day* by Mr. Chaplin, and to have been immediately adopted by Government without further inquiry or deliberation than may have taken place before the 3rd of the next month.

"5. With respect to Mr. Chaplin's proceedings in this case, I would, with all deference and respect for his well known abilities and general correctness, beg that Government would compare what he writes in his letter of the 19th May 1825 with his orders quoted in paragraphs 8 to 11 of my letter to the Chief Secretary No. 336, dated 27th March 1847 [quoted in paragraph 6 of this Memorandum]. I think it will be seen that the proceedings of 1825 were neither on the part of the Commissioner nor Government so deliberate and well considered as the rule which both before and afterwards was declared, and which seems to have always been acted on—viz. that the sanction of Government, declared previous to adoption, is essentially requisite to give any adopted son such a claim *against Government*, for the continuance to him of Inams or any other property emanating from the State, as to bar the Government's right of escheat.

"6. Under these circumstances, I am respectfully of opinion that the petitioner's claim to the village of Nandoor Dussuk should be rejected, on the grounds that his adoption was not sanctioned by Government, and that it should be fully understood that the previous sanction of Government is still requisite in *all* cases of adoption to create any right against it.

"7. With regard to the villages of Kurrunjgaum, &c. in the Poona Collectorate, I would suggest that the alleged Inamdar's right in them be left to the regular inquiry of the Inam Commission."

63. The above embodies all the essential points requiring to be placed before His Lordship with reference to the general question involved.

(Signed) H. E. GOLDSMID,
Secretary.

15*th June* 1852.

To W. HART, Esq.,

Inam Commissioner.

SIR,—I have been directed by the Right Honorable the Governor in Council to transmit herewith copy of a Memorandum drawn up in this office regarding the question as to how far Government are bound to recognise adoptions on the part of Inamdars and others holding liens on the public revenue.

2. On reading over the Memorandum, His Lordship in Council can come to no other opinion but that Government have a right to reserve in all cases the power of granting or refusing such assent to an adoption as will confer upon the adopted son a title against the State.

3. Before, however, making any final order on this subject, Government must await the orders of the Honorable the Court of Directors, which, in their letters quoted in paragraphs 13, 30, and 31 of the Memorandum, they have promised to send after consulting with the Government of India.

4. In the meanwile, His Lordship in Council has been pleased to resolve that all applications for adoption by Inamdars and Wutundars be assented to, except when there are special reasons for refusing assent,—such, for instance, as the past mismanagement of an Inam district or village, the misconduct of the Inamdar, Wutundar, &c., or the requirements of policy that the Inam or Wutun should be decreased or discontinued, or in cases where the title to a holding, though not clearly susceptible of disproof, is of such a suspicious nature as to render it advisable that Government should exercise the right of veto which, as above stated, the Governor in Council considers inherent in it. His Lordship in Council would refuse to perpetuate by adoption any secular cash or grain allowance, except where there are special reasons of a political nature, as in some of the instances occurring in Guzerat.

5. With regard to past cases, that is, cases in which Inamdars have already adopted heirs, the question of whose succession is submitted for the decision of Government in the communications replied to in those of this date, (Nos. 6027, 6028, 6031, 6036, and 6040,) His Lordship in Council has been pleased, pending the receipt of the Honorable Court's orders on the general subject, to disallow the title, as against Government, of adopted sons. This course seems more expedient than any other, as it will avoid the appearance of compromising Government to the continuance of liens on public revenue held by the persons adopting, while should the decision of the Court be favourable to the absolute right of succession by adopted heirs of Inamdars, any lands, &c. now taken possession of by this Government as lapsed can be restored to them on receipt of the Honorable Court's orders.

6. With the title of sharers in Inams, &c. as against *each other*, so far as this is affected by adoption, Government have, of course, nothing to do; the only question in any adoption case for Government to decide is whether or not there is any reason on the part of Government to admit the liability of the State to the demand against it of an adopted son, as though he were born in wedlock.

I have the honour to be, &c.

(Signed) A. MALET,
Chief Secretary to Government.

Bombay Castle, 14th September 1852.

Memorandum by the Inam Commissioner Northern Division.

No. 569 A OF 1855.

Poona, 26th May 1855.

The earliest evidence of the practice under the British Government as yet discovered has been found in the proceedings of the civil tribunals at Surat in A. D. 1814 and subsequent years, in a disputed case of adoption, involving an annual income of about a lakh of rupees, reported in Vol. I. of Borradaile's Reports, pages 181 to 202, in which case in every one of the courts, from the lowest to the highest, the sanction of the ruling power to an adoption was held to be essential.

2. Throughout and up to the termination of the rule of the Peshwas the aforesaid rule was of universal application, and so it remained under the British Government until on the 19th May 1825 the Deccan Commissioner, Mr. Chaplin, submitted a letter from the Collector of Poona, Captain Robertson, in which that officer stated that "during the Muratha rule the holders of Inams could dispose of them by will, in sale, or in any way they chose"; on which representation Government on the 3rd June 1825 admitted, as a general rule in the Deccan, that "children adopted with such forms and sanctions as may have been usual should succeed to Inam lands, or whatever may be considered private property."

3. It has not been found possible to discover any minute or record of the grounds upon which Mr. Elphinstone's Government issued the foregoing orders, and the only reasonable supposition seems to be that they either were issued under some complete mistake or misapprehension, or that in describing the necessity of "such forms and sanctions as may have been usual," the sanction of the ruling power was understood to be included as a matter of course.

4. That this last was the intention of the Government seems certain from a large mass of collateral evidence on record, which will be by and bye described, and which, apparently, proves that the Government

could not have meant to dispense with that sanction which of all others had always previously been, and had been after inquiry publicly declared to have been the most essential to the transfer or disposal in any way of alienated public revenue.

5. These orders of Government appear, however, never to have been understood or acted upon in any uniform manner. Almost immediately afterwards the next Governor, Sir J. Malcolm, proposed that in all cases of transfer, adoption, &c. a certain amount of Nuzurana should be levied, and the records of Government contain numbers of applications and reports from the several local authorities regarding the transfer of Inams by sale and adoption.

6. Sir John Malcolm's Nuzurana scheme having been negatived by superior authority, in 1831 his successor, Lord Clare, found it necessary, in consequence of the doubt and misconception found to be generally prevalent, to reiterate on the 24th October 1831 the order quoted in paragraph 2 of this Memorandum.

7. But it is perfectly certain that the practice which has prevailed during the last twenty years has been, not that described in the order of 1831, but the one which was found in existence when the Peshwa's territories were acquired by conquest, which had previously been the only practice known throughout those territories, and which had been universally followed during the first seven years of British rule, until questioned, though, as above shown, not virtually abolished, under circumstances so extraordinary and contradictory that it is obviously impossible to base any argument upon them.

8. At length, with a view to the enactment of a law clearly defining the extent, if any, to which the transfer of alienated public revenue from one family to another should be permitted, a reference was made to the Honorable Court of Directors, who on the 22nd May 1850, in their revenue despatch No. 5, communicated to the Government of India the view they took of the general question. In paragraph 7 of that despatch the Honorable Court thus described what they understood to have been the general practice under the Bombay Presidency :—

> "The general practice under this Presidency, as may be gathered from the various cases which have from time to time formed the subject of correspondence with that Government, has been to require the previous sanction of Government to adoptions by holders of Jagheer and Surinjam lands, but not to interfere in any way in the case of adoptions by holders of lands held as Inam or Suwusthan. The decision of the Bombay Government, founded on Mr. Hart's report, now renders the previous consent of Government equally requisite to the validity of adoptions by persons holding lands under the last-named tenures."

9. Supposing such to have been the general practice, the Honorable Court in paragraph 10 of the despatch recorded the following opinion :—

"We therefore concur in the view of the question taken by the Bombay Government, that according to the practice of existing Hindoo States, the previous consent of Government is requisite to the validity of all adoptions, so far as they affect succession to assignments of the public revenue. But it must be considered whether the British Government, having to so great an extent abandoned, or rather neglected to enforce, this rule in regard to Inams and some other tenures, can now to any and to what extent expediently exercise the right."

10. The Government of India replied on the 30th July 1852, No. 15, to the effect that it would not in their opinion "be just and expedient either to alter the laws, or to extend the practice of requiring the consent of Government to the alienation of Inams or appointment of heirs to succeed to them, in any cases or classes of tenures in respect of which such consent is not now required by law or practice, or a stipulation to that effect is not now contained in the instrument creating the tenure."

11. The Honorable Court subsequently, in their revenue despatch of the 23rd March 1853, No. 5, in communicating to the Bombay Government the aforesaid reply from the Government of India, issued the following instructions :—

"3. Under the opinion thus expressed by the Governor General of India in Council, we do not propose to direct any alteration in the existing practice in this respect, but we desire that in all cases in which by law or practice the grantees of public revenue, under whatever title held, have hitherto been restricted from alienating their possessions from the direct line of the original holder, such restriction may continue to be maintained. In order that our views on this subject may be more clearly understood by you, we transmit copy of the despatch in which the question was referred by us for the opinion of the Government of India." (Revenue despatch No. 5, dated 22nd May 1850.)

12. Government have now finally to determine whether there are any, and if so what description of "cases in which by law or practice the grantees of public revenue, under whatever title held, have hitherto" been allowed without restriction to alienate "their possessions from the direct line of the original holder."

13. During the examination and scrutiny of the revised lists of Deccan Surinjams, in which serious and manifold error has been found

to exist, I have had occasion carefully to ascertain from the Peshwa's State records the practice of the late Government in regard to the continuance of the various classes of alienations. The result of this inquiry in regard to Inams was submitted to Government in paragraphs 6 to 15 (below quoted) of my report No. 163, dated the 2nd May 1853. It does not seem necessary to refer on this occasion to any of the other descriptions of alienations, as the right to dispose of or transfer them without restriction has not, I believe, been even supposed to have ever existed:—

"6. The system of record and accounts under the Peshwa's Government was a very perfect one—one of the most perfect, probably, ever devised; but to be fully understood the documents themselves must be seen and studied. The outline given in the last paragraph will, however, I hope, convey some idea of the great value of the information afforded by these State records, for it is *on their authority* that I venture to believe alienations of revenue generally, and Inams particularly, to have been one thing in theory, while they were quite another in practice.

"7. I have framed and annexed to this letter the undermentioned four statements, containing a number of selected cases illustrative of the system which was in force during the last seventy years of the Peshwa's Government:—

"Statement A, of Inams resumed by the Peshwa's Government.
"Ditto B, of ditto continued to direct and collateral heirs under the authority of ditto.
"Ditto C, of ditto ditto to adopted sons under ditto ditto.
"Ditto D, of ditto transferred by gift or sale under ditto ditto.

"These cases form but a small fraction of those on record, but they will suffice, I apprehend, to prove that the Commissioner in the Deccan (Mr. Chaplin), whose opinion Mr. Warden has quoted in the 3rd paragraph of his letter, was in error when he stated that the practice of the Peshwa's Government in respect to Inams was that the holders could dispose of them by will, in sale, or in any other way they chose. It seems to me clear that without the sanction of Government *even a son could not hold his father's Inam*, and that without such sanction any transfer of an Inam became null and void. It appears equally certain that the Peshwa's Government not only possessed the power of resuming Inams, but that the power was freely exercised, and it is further shown that Inamdars were not exempted from the payment of cesses, but that they contributed largely in this respect. In short, it is placed, I think, beyond a doubt that an Inam, though granted as a free gift in perpetuity, was resumed or continued, and was taxed at pleasure.

"8. The power of resumption seems to have been arbitrarily exercised; but this is not surprising, for it could scarcely have been otherwise where the will of the sovereign had the force of law, and indeed *was* the law. Whatever may have been *the theory, in practice* Inams seem to have been interfered with in every possible way; and it will be seen* that on an Inamdar's death even his son could not consider his holding secure without obtaining the special sanction of Government to the succession. It will be observed,† also, that political offences were punished by resuming the Inam of the offender, and that the punishment due to the actual delinquent was sometimes‡ *even inflicted on his relatives.* When it is remembered that the Muratha rule was one succession of usurpations, conquests, and intrigues for sovereign power, an estimate may be formed of the number of persons who suffered on this account.

"9. The documentary evidence thus obtainable being of such unquestionable authenticity, can scarcely be strengthened by individual testimony. The value, however, which attaches to any deliberately recorded opinion of Sir T. Munro is such that I should leave this portion of the subject incomplete were I to omit to make the following quotation from a Minute of his, dated the 16th January 1823, and *written after* he had effected the reduction and settlement of the *Southern Muratha Country*, now forming a portion of the Bombay Presidency, and that portion, too, in which more alienated land is claimed than anywhere else. Sir Thomas Munro thus expressed himself:—

> "'In this country, under the Native Governments, all grants whatever are resumable at pleasure; official grants are permanent while the office continues, but not always in the same family; grants for religious and charitable purposes, to individuals or bodies of men, though often granted for ever, or while the sun and moon endure, were frequently resumed at short intervals; grants of Jagheers or Inam lands from favour or affection, or as rewards for services, were scarcely ever perpetual. It was rare that any term was specified, and never one or more lives; but it made usually little difference whether the grant was for no particular period or perpetual,—the (Altumgha) perpetual grant was as liable to resumption as any common grant containing no specification of time; it was resumed because it was too large, or because the reigning sovereign disliked the adherents of his predecessors and wished to reward his own at

* "No. 24 of Statement A, and Nos. 1, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 20, 21, 23, and 24 of Statement B."

† "Nos. 4, 5, 6, and 22 of Statement A."

‡ "Nos. 9 and 14 of Statement A."

their expense, and for various other causes. There was no rule for the continuance of grants but his pleasure; they might be resumed in two or three years, or they might be continued during two, three, or more lives; but when they escaped so long, it was never without a revision and renewal. I believe that the term of their lives is a longer period than grants for services were generally permitted by the Native princes to run.'

"10. Statement D, of Inams transferred by gift or sale under the authority of the Peshwa's Government, contains a number of instances sufficient, I think, to prove that these transfers were valid only when sanctioned by Government. It is shown that this sanction was sometimes* conditional on the payment of a relief or Nuzur. How very fully the Government exercised the power of control can scarcely be doubted when we find that it extended to the transfer of a small portion of Inam land by Nana Furnavese† then in the height of his power, and when we see that a powerful feudatory like the Vinchoorkur‡ was subjected to the same restriction.

"11. The inquiries which I have made to enable me to prepare this report have placed me in possession of valuable information elucidatory of the practice which existed under the Peshwa's Government in regard to adoptions by Inamdars. Statement C contains fifteen instances in which adoptions were sanctioned. In some§ of these cases the adoptive father had held a Surinjam as well as Inams, and both were continued on the payment of a relief (Nuzur); in others‖ the succession was to Inams only, and even here it will be seen that Nuzurs were sometimes levied.¶

"12. The above evidence seems tolerably conclusive, but there is yet stronger proof forthcoming. I would solicit a reference to the instances specified below,** in *which adoptions were disallowed and Inams resumed, on the specifically recorded grounds of such adoptions not having been made with the sanction of the Peshwa's Government.*

"13. Under these circumstances there cannot, I apprehend, longer remain room for doubting the correctness of the opinion on this subject laid down by the Government in the Revenue Secretary's letter No. 6023, of the 14th September last, and which has been submitted for the final orders of the Honorable Court of Directors: it is, I think, clear, that in reserving to themselves the power of granting

* "No. 10 of Statement D." † "Nos. 14 and 16 of Statement D."
‡ "No. 11 of Statement D." § "Nos. 8, 12, and 15 of Statement C."
‖ "Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, and 14 of Statement C."
¶ "Nos. 1, 2, 6, 9, and 11 of Statement C."
** "No. 19 of Statement A, and No. 4 of Statement C."

or refusing such assent to adoptions on the part of Inamdars and others holding liens on the public revenue as will confer upon the adopted son a title against the State, Government merely exercise a prerogative which the Peshwa never for a moment relinquished.

"14. That with the information which is now forthcoming (only a small portion of which I have thought it necessary to embody in the several statements appended to this letter) before him, the Commissioner (Mr. Chaplin) would have ever informed the Government that the practice of the Peshwa's Government in respect to Inams was that the holders could dispose of them by will, in sale, or in any other way they chose, is, I conceive, out of the question; and I presume, therefore, that the knowledge must have been withheld from him by the hereditary Duftur Karkoons, most of whom must have been more or less acquainted with previous practice, and many of whom must have been able to refer to the recorded proof which was at hand, had they thought proper to do so. To one of these hereditary Karkoons I shall by and bye have occasion again to refer (paragraph 99 of this letter), and I would only here further remark, that what has apparently occurred seems to point out the necessity of extreme caution in matters of this description.

"15. It certainly seems to me that *bonâ fide* Inams are *now* held on a tenure far more secure and permanent than any which existed under the Peshwas, and the proof that such is the case is, I think, to be found in the recorded proceedings of the Peshwa's Government. But this is not all: it is only under the present Government that Inamdars have been relieved from the constant and heavy exactions to which they were previously subjected; the Native Government seems to have exacted from them largely, and if not quite as much as from some other classes, certainly as much as they required, or thought proper,—the difference was in many respects a purely nominal one. Inamdars did not, as a general rule, pay what was called Nuzur, though it was frequently levied from them, but they were made to pay in a dozen other ways, and the Government demands were, if resisted, realised by a summary process,—the resumption of the Inam. I give below nine of the heads under which levies from Inamdars were brought to account, the amount of revenue which was thus realised being shown by the accounts of the late Government to have been very large:—

" 1. Inam Tizaiee.
" 2. Kurz Puttee.
" 3. Ek Salee Puttee.
" 4. Duhuk Puttee.
" 5. Inam Puttee.
" 6. Babool Puttee.
" 7. Swaree Puttee.
" 8. Ambeh Puttee.
" 9. Doomalleh Puttee.

"Of these, all save Inâm Tizaiee have, I believe, been discontinued."

14. Since the report from which the foregoing extracts are made was written, I have met with a remarkable instance of the unlimited power which the Peshwa's Government not only asserted, but exercised in regard to adoptions, in a Sunud issued by the Peshwa on the 23rd February 1799 (17th Rumzan, Teesa Teesain Mya wu Ulluf), and duly registered in the State diary, permitting the adoption of a son by a tailor not in the receipt of anything whatever from the State.

15. As I have hereinbefore stated, the practice of the Peshwa's Government was rigidly adhered to in regard to all alienations of the public revenue, during the first seven years of British rule. I now must advert to this fact in connection with the directly opposite assertions made by the Honorable Mr. Warden, as a Member of the Government to which he lately belonged. It seems to be of very great importance that the Government of India and the Honorable Court should have the real facts of the case before them, because Mr. Warden's statements must have had a great deal to say to the belief expressed by the Honorable Court that the general practice under the Bombay Presidency has been to allow the holders of Inams to dispose of them without any restriction; the more especially as Mr. Warden positively asserted such a practice to have prevailed during the period which of all others afforded the best and strongest evidence of that which had been found in existence at the termination of the Peshwa's rule.

16. Quoting from the memorandum, a copy of which accompanied the Revenue Secretary's letter No. 6023, of the 14th September 1852, I proceed to record the opinions enunciated by the Honorable Mr. Warden to which I have just referred. On the propriety of publishing a notification regarding adoptions made by the holders of public revenue, the Honorable Mr. Warden observed:—

"Until the Government receives the final orders of the Honorable Court of Directors, to be issued after hearing from the Government of India (see paragraph 30 of this Memorandum), it cannot be even said to be the rule that adoptions to the inheritance of Inams (the power to sell which proves them to be private property) requires sanction.

"On the 3rd June 1825 this Government, in a letter to the Commissioner in the Deccan, admits, as a general rule in the Deccan, that children adopted with such forms and sanctions as may have been usual should suceeed to Inams, or whatever may be considered private property.

"'With regard to Jagheers,' the Government adds, 'no adoption can have any effect unless it is so expressly declared by the Government.' The letter from which I quote, and which was always

familiar to me as containing the principles on which we settled the Deccan, the previous proclamation of a principal Collector notwithstanding, has just been sent to this Government by the Honorable Court (see paragraph 24 of this Memorandum), and I certainly consider that it will be a violation of the terms conceded to the people of the Deccan at the conquest to lower the standard of Inams to that of Jagheers, and resume them from sons adopted without sanction."

On another occasion, when Government were called upon to recognise an adoption made without their sanction by the Raja Bahadoor of Malligaum, the Honorable Mr. Warden recorded the following dissentient Minute :—

"The confirmation or otherwise of the adoption affects the question of the continuance or otherwise of the *Surinjam* only. The pecuniary payment is distinctly stated in the title-deed to be an *hereditary* payment in lieu of *Wutuns* ceded in exchange, and must, I apprehend, descend, as a matter of course, to the adopted child."

And, again, in the case of a similar adoption made by one Wasoodew Joshee Chiploonkur, the Honorable Mr. Warden observed :—

"In the case of Inams it is not necessary to the validity of an adoption that it be sanctioned."

17. It has now to be shown that the principles on which the Deccan was settled were, in point of fact, precisely the reverse of those described by the Honorable Mr. Warden.

18. After the conquest of the country, one of the first questions submitted to Mr. Elphinstone by the Collector of Poona, Captain Robertson, was one regarding adoptions. On the 2nd August 1818 Captain Robertson explained, that under the rule of the last Peshwa adoptions by widows had even been altogether prohibited, and he inquired whether the practice of the late Government should be followed; to which Mr. Elphinstone on the 11th idem replied :—

"I beg the law may be kept as it was in Bajee Rao's time till there shall be full time to gather good opinions as to the Hindoo law; the present practice seems most consistent with reason."

19. The records of the Deccan Commission afford ample proof that from 1818 to 1825 Mr. Elphinstone's orders were attended to, for they are filled with applications to be permitted to adopt.

20. On the 20th August 1822 Mr. Chaplin, the Commissioner, submitted, with his own annual report on the state of the conquered territories, letters from the several Collectors affording information on various matters of importance connected with their respective charges. The Collector of Poona, Capt. Robertson, in paragraph 75 of his letter stated,—

"The sanction of Government was always indispensable to render adopted children the legal inheritors of the property of their adoptive parents."

21. The Political Agent in Khandeish at the same time informed Mr. Chaplin,—

"The sanction of Government was required for the adoption of children when any property was pending."

22. The Collector of Nuggur, Captain Pottinger, reported the sanction of Government to have been always necessary, not only to adoptions, but also to successions, "where the persons concerned were of importance, such as Jagheerdars, Inamdars, Zemindars, or great Soucars"; and he further explained that the practice had been kept up "under the late orders of Government perhaps more strictly than formerly."

23. The foregoing quotations (paragraphs 20 to 22) are from papers printed by order of Parliament, and they surely must be held conclusively to prove that the principles upon which the Deccan was settled were not those described in the Honorable Mr. Warden's Minutes.

24. Such continued to be the state of things, both in theory and practice, until May 1824, when (to use the words of the late Inam Commissioner, Mr. Hart, to whose clear reports on this subject I have found it possible to add but very little) a directly contrary principle "appears to have been first enunciated on the 18th May 1825, by Captain Robertson (who was mistaken in the supposed facts on which he grounded it); to have been submitted, without more investigation than he could have made in *one day*, by Mr. Chaplin; and to have been immediately adopted by Government, without further inquiry or deliberation than may have taken place before the 3rd of the next month."

25. But a number of concurrent circumstances lead me to believe that Mr. Elphinstone's Government never intended by their order of 1825 to alienate irrevocably a large amount of public revenue, the right of escheat to which had from time immemorial rested in the State; had always been rigidly and arbitrarily asserted; had been the subject of general and careful inquiry on the introduction of British rule; had been subsequently maintained (as Captain Pottinger stated) "perhaps more strictly than formerly"; and had been pointed out by Mr. Elphinstone, when Commissioner, as the great source from which a decided though gradual alleviation of these public burdens might be properly and confidently anticipated.

26. I have already shown that Mr. Elphinstone, just after the conquest of the Deccan, instructed the Collector of Poona to follow the practice existing under the former Government, "until there shall be full time to gather good opinions as to the Hindoo Law"; and I now have to beg attention to the opinions which were thus gathered, and

which were embodied in a summary of "the law and custom of Hindoo castes within the Deccan provinces subject to the Presidency of Bombay,"—which work was ordered by Mr. Elphinstone's Government to be printed on *the 29th July* 1826, and in which I find the following distinct definitions of the practice in regard to adoptions as affecting property held from the State, *i. e.* the public revenue:—

"Lands given in Inam, on failure of heirs, revert to the granter, whether Government or an individual Jagheerdar"—(page 235). "Widows may also adopt with the consent of the representatives of the granters of the Inam"—(page 185). "The consent of the Sirkar (Government) is necessary to adoptions by Wutundars"—(page 185). "Inamdars, exclusive of dancing girls, in making adoptions, must obtain the consent of the representatives of the granters, or, if the Inam land were granted by Government, of the Sirkar. Nuzurs were paid to the Native Government on occasions of granting permission to adopt"—(page 185).

27. Bearing in mind that the work from which I have just quoted was compiled at the desire of Mr. Elphinstone, for the express purpose of being, as it was, "circulated for a certain time as a book of information though not of authority," to be ultimately improved "by the decision of all doubtful questions, the removal of all glaring blemishes, and the filling up of all great deficiencies, until it forms a complete code of laws, sanctioned by Government and accessible in their vernacular language to all classes of its subjects,"—bearing all this in mind, and, above all, remembering that the authoritative circulation of this summary took place more than one year *after* the issue of the order of June 1825, it is surely but reasonable to conclude that it (the order of 1825) was either issued under some complete mistake or misapprehension, or that in describing the necessity of "such forms and sanctions as may have been usual," the sanction of the ruling power was understood to be included as a matter of course.

28. I believe the latter to have been the case, and this belief is greatly strengthened by the recorded proof of Mr. Chaplin having placed this construction upon the order, inasmuch as one of his last acts on the breaking up of the Deccan Commission in 1826 was, on the 8th June, to describe to the Collectors the returns they would for the future be required to transmit direct to Government, and in doing so to specify "more particularly reports of the deaths of the present incumbents of Jagheer, Surinjam, and Inam villages and lands."

29. That such instructions *could* ever have been issued had Mr. Chaplin supposed Government to have relinquished the right to control all the transfers of alienations, whether by adoption or otherwise, is, I conceive, out of the question; and this readily accounts for the doubt

and misconception the universal prevalence of which elicited Lord Clare's orders of 1831, which, again, became almost immediately a dead letter.

30. It has now, I think, been incontrovertibly shown that the principles on which the Deccan was settled were not those described in the Honorable Mr. Warden's Minutes; but I have yet to adduce the evidence on this subject recorded by Mr. Warden himself on the 26th July 1845, when, as Agent for Sirdars, in reporting on the claims of the Kudum Banday family in Khandeish, he informed the Government (paragraph 7 of the Agent's letter No. 125, dated the 26th July 1845) "that Mr. Chaplin did not always, when in the settlement of this country he restored an Inam, mean that he gave it hereditarily, is shown by the accompaniment No. 2. I recollect having observed other examples of the same fact, though I cannot trace them on the records at the moment." The accompaniment No. 2, referred to by Mr. Warden, was a letter dated the 2nd June 1822, from the Commissioner Mr. Chaplin to the Collector of Nuggur, of which the following is a transcript:—

"I have the honour to request that you will restore the village of Wore (Inam), Purguna Nasik, to Saloobaee, widow of the late Gunput Rao Worekur, with arrears from the date of resumption. The Wutuns of the family are also to be restored to her in the same manner.

"The lady has adopted a son, but the whole of the above grants are only to be held by the widow for life, and are at her death to lapse to Government, the adopted son having no claim to inheritance of this description."

31. The past and present practice in regard to the restrictions on holders of Inams and other alienations of the public revenue alienating them from the line of the original grantee may be briefly stated as follows. Such restrictions existed throughout the rule of the Peshwas, were enforced at the introduction of the British Government in 1817, and continued to be so enforced until June 1825, when an order was issued, which caused so much doubt and uncertainty as to require in 1831 an explanatory declaration, which seems never to have thoroughly taken effect, and which it is certain became a dead letter four or five years afterwards, from which time (*i. e.* from about 1836) the principles on which the Deccan was settled have been again steadily adhered to.

32. I have endeavoured to place this important fact clearly on record, as it is one regarding which the Honorable Court appear to have been completely misled by the Honorable Mr. Warden's Minutes: so far from it having been, as supposed by them, the general practice "*not* to interfere in any way in the case of adoptions by holders of lands held as Inam," such non-interference has been the exception to the rule strictly

enforced during the settlement of the country, and during the first eight and the last twenty years of our occupation of it, while during the greater portion of the intervening ten years (from 1825 to 1835) there was no uniform practice.

33. Such, then, having been the general practice heretofore, there cannot, apparently, be any difficulty, on the score either of the opinion expressed by the Government of India, or the orders received from the Honorable Court; and it will, I apprehend, be strictly in accordance with the sentiments expressed by both these authorities to continue to recognise in this matter no other principles than those in force for the last twenty years, and upon which the early settlement of the country was made, and no other transfers of alienated public revenue of any sort, whether by adoption or otherwise, than those to which the sanction of the ruling power may have been solicited and accorded.

34. The reference to the Government of India contemplated by the Bombay Government seems to have been now rendered unnecessary by the clear and explicit orders which have in the meanwhile been received from the Honorable Court, whose previous instructions left this Government in some doubt as to the construction to be placed on them. These doubts have now, however, been removed by the despatch of the 31st January last, No. 3, in paragraph 2 of which the Honorable Court have stated,—

> "We are decidedly of opinion that in no case should the alienation of an Inam be recognised for any term exceeding that for which the present holder and his heirs may possess an interest, and that the eventual right of Government to resume the revenue on the extinction of the family of the original grantee should be carefully maintained."

This rule the Court have desired "must be considered inviolable"; from which it results that no adoption tending to the perpetuation of alienations of the public revenue of this description can hereafter be recognised.

35. The necessity of diminishing by all legitimate means the enormous alienations of the public revenue in the Bombay Presidency has, I believe, at length been recognised. It is a fact that the concession by the British Government of these so-called rights has been accompanied by no retention of the obligations which attached to them, the consequence being the creation of a class which under the former Government did not exist; for under that Government the holders of alienations contributed largely to the public resources by periodical and other payments, and assisted, generally speaking, to some extent in the internal administration of the country. Mr. Chaplin on the 26th April 1821 informed the Bombay Government,—

"These Nuzurs formerly produced a very considerable revenue, the sum derived from them by the late Government during the last fifty-six years exceeding four crores and fifty-eight thousand rupees."

And even this large amount, which was that appearing in the public accounts, formed, Mr. Chaplin thought, "but a small part of the total collections under this head."

36. I close this report by an extract (paragraph 175) from a Minute recorded on the 21st September 1815 by the Marquis of Hastings, whose clear and convincing language, used forty years ago, seems to apply with redoubled force to the present state of things in the Bombay Presidency:—

"175. Of all subjects of taxation I should conceive the profits of rent-free lands the most legitimate. The holders of land of this description are at present exempted from all contribution, whether to the local police or Government by which they are protected, or to the public works from which their estates derive equal benefit with the rest of the community. They are indebted for the exemption either to the superstition, to the false charity, or to the ill-directed favour of the heads of former Governments and other men in power, and have little personal claim upon ourselves for a perpetual exemption from the obligations they owe as subjects. Most of the tenures may be considered invalid; indeed, the scruples which have saved the whole of these lands from indiscriminate resumption have given cause to admire as much the simplicity as the extreme good faith of all our actions and proceedings."

(Signed) T. A. Cowper, Captain,
Inam Commissioner Northern Division.

Statement A (to accompany Captain T. A. COWPER, *Assistant Inam Commissioner's Letter No.* 163, *of the 2nd May* 1853) *of Inams resumed by the Peshwa's Government by Sunuds or Orders, which are registered or quoted in forthcoming State Records, Diaries, Ledgers, &c.*

Number.	Date of the Registry of the Sunud, or other Document referred to.		Description of resumed Inam.	From whom resumed.	On what account resumed.	Remarks.
	Arabic.	A. D.				
1	11th Rubee-ool-Awul, Khumus Seetain.	1764-65	Inam land, and shares of revenue (Umul) in the village of Diggee, in the Neywasee Purguna.	Krishnajee Nikkum Silledar.	For quitting the Peshwa's camp without permission.	
2	3rd Zilhej, Teesa Seetain.	1768-69	Land in the village of Ghotowreh, in the Konkun.	Bhaskur Keshow Joshee Kumlakur.	No reason assigned.	
3	18th Sufur, Sulas Subain.	1772-73	A portion of the village of Tullegaum, in the Trimbuk Purguna.	Balajee Huree Joglekur.	Stated to be an offence of the most heinous nature, but not specified.	The whole village was at first resumed, but on the relatives of the offender representing their innocence of any crime, *their shares* were restored.
4	21st Rubee-ool-Awul, Arba Subain.	1773-74	Land in five villages in the Konkun.	Ramchunder Wittul	For serving with Rugoonath Bajee Rao (Raghoba).	This Sunud must have been issued by one of the Ministers who opposed the pretensions of Raghoba, as it is dated during the period which elapsed between the

Number.	Date of the registry of the Sunud, or other Document referred to.		Description of resumed Inam.	From whom resumed.	On what account resumed.	Remarks.
	Arabic.	A. D.				
						murder of Narayen Rao Bullal and the birth of Mahadoo Rao Narayen, and during which Raghoba was *de facto* Peshwa.
5	1st Rubee-ool-Awul, Arba Subain.	1773-74	Land in the hamlet of Bhakudwaree.	Yessajee Dhoomal..	For serving with Rugoonath Bajee Rao (Raghoba).	This resumption must have taken place as above; the date of the Sunud is quoted in the ledger for the year Khumus Subain (A.D. 1774-75).
6	29th Zilhej, Suba Subain.	1776-77	The village of Purlee, in the Seeheemahal Turuf.	Trimbuk Suryajee.	Joining the standard of the impostor who personated Sudasew Rao Bhow, the Peshwa's cousin, who fell in the battle of Paniput.	
7	29th Sufur, Teesa Subain.	1778-79	A share of the Inam village of Darowlee, in the Pour Khora Turuf.	Bhagoojee Balkurdey.	Disobedience of the orders of the Government. सरकारा सी रुजु नाही. Surkara she roozoo nahee.	
8	17th Sufur, Teesa Subain.	1778-79	Four Inam villages in Prant Poona.	The minister Sucaram Bhugwunt.	No reason assigned.....	This was the act of the rival Minister Nana Furnavese, the Peshwa being then an infant.

9	Teesa Subain	1778-79	The Inam village of Sawah, in the Mhar Purguna.	Bulwunt Rao Mulhar.	Because *his brother* had not paid a fine imposed on him by the Government.	This is an entry in the ledger bringing the proceeds of the village to the account of Government, for the reasons assigned in the preceding column.
10	Ditto	1778-79	Land in the village of Murdah, Prant Waee.	Bullee Annajee ..	For having surreptitiously included in his Inam land that belonging to another person.	This is an entry in the ledger bringing the proceeds of the village to the account of Government, for the reasons assigned in the preceding column.
11	18th Rubee-ool-Awul, Sumaneen.	1779-80	The village of Askhar Khoord, in the Jooneer Prant.	Narayen Joshee, Nurhur Joshee, and Gopal Joshee, the sons of Krishna Joshee.	No reason assigned	And the Sunud, dated four days later, orders the seizure of the whole of the private property, house, &c. of one of the brothers, Gopal Joshee.
12	Ditto	1779-80	Inam land in the Poona and Kuryat Mawul districts.	Ramajee Bugajee, & Dajee Gopal and Balajee Raghoonath, Deshpandeys of Prant Poona.	Ditto ditto	A portion of the Wutun also resumed by the same Sunud.
13	3rd Rubee-ool-Akhir, Sumaneen.	1779-80	Three villages in Purguna Neywasee.	Kwajeh Mahomed Khan Kuvee Jung.	Improper conduct. ..... वर्तणुक यथास्थीत नाही. Wurtnook yéthästeet nahee.	A Surinjam was resumed at the same time, and both it and the three Inam villages were by the same Sunud transferred to the son of Kwajeh Mahomed Khan on the payment of a relief (Nuzur) of forty-five thousand and one rupees.

Number.	Date of the Registry of the Sunud or other Document referred to.		Description of resumed Inam.	From whom resumed.	On what account resumed.	Remarks.
	Arabic.	A. D.				
14	Sulas Sumaneen ..	1782-83	Inam land in the Talooka of Viziadroog.	Luximon Monar..	Because his nephew, Ramchunder Narayen, had joined Raghoba.	This is an entry from the ledger bringing the proceeds of the resumed Inam to account.
15	Ditto	1782-83	The village of Velub, in the Waghera Purguna.	Dewjee Oondut Rao.	Misconduct. (अंतर) ..... (Untur.)	Ditto ditto.
16	22nd Jummad-ool-Awul, Sulas Sumaneen.	1782-83	Fifty-seven Inam villages....	Sukoobaee Sindia, the aunt of Mahadajee Sindia.	In liquidation of a sum due by the Inamdar to a banker.	These villages were subsequently restored.
17	15th Mohurum, Sulas Sumaneen.	1782-83	The village of Jambowlee, in Kullian Prant.	Baljoshee Kirkeeray.	No reason assigned.	
18	9th Rubee-ool-Akhir, Sulas Sumaneen.	1782-83	Three villages, and land in seven others.	Ram Rao Jewajee Chitnees, and other of his relatives.	Ditto ditto	A Surinjam held by them was also resumed by the same Sunud.
19	7th Sufur, Arba Sulas Sumaneen.	1783-84	A large Wutun, extending over twenty-five districts.	The widow of the Deshmook of the province of Dowlutabad, &c.	The adoption without the sanction of Government of a son by the widow of the late Deshmook.	The Deshmook was also Deshpandey, and the latter Wutun was also resumed.
20	2nd Jummad-ool-Awul, Arba Suma-	1783-84	The village of Bunnolee, Turf Koodall.	Ramsing Moheetey.	1st,— For not producing the Sunud from the Raja of	

	neen.				Sattara, on which the Inam was stated to be held; 2*nd*, for not paying the shares of the revenue (Umul) of the village belonging to other parties; 3*rd*, for withholding the Government dues levied from the village officers.	
21	20th Mohurum, Arba Sumaneen.	1783-84	The village of Waneegaum, Turuf Rajapoor.	Rugoonath Trimbukjee Shet.	For withholding certain monies payable to Government.	
22	Khumus Sumaneen.	1784-85	The village of Verasey, Turuf Wunkhul.	Dipajee Rao Zeroofkur.	Treason.....	This is an entry from the ledger in which the revenue of the village is brought to account.
23	Eeheday Teesain..	1790-91	Land in the village of Pal, in the Mhar Purguna.	Neelkunt Rao Prulhad Rajapoorkur.	Having obtained the grant of the Inam by false representation to Government, and by forgery.	Ditto ditto.
24	12th Shuwal, Ecsuney Teesain.	1791-92	The hamlet of Sheetoley Warree, and shares of the revenue of two villages (Umul).	Nathoojee Shaloonkey.	The death of the holder, and no sanction having been accorded by Government for the continuance to his son.	A Surinjam also resumed by the same Sunud, and on the same account.
25	5th Zilkad, Arba Teesain.	1793-94	Share of the revenue (Umul) of several villages in the district of Runasee and Koralee.	Deveesing Wiswasrao Tokey.	Conduct not good..... वर्तणूक ठीक नाही Wurtnook teek nahee.	The same Sunud orders the resumption of a Surinjam, also on the same account, and directs the continuance of both it and the Inams to the son of Deveesing.

Number.	Date of the Registry of the Sunud, or other Document referred to.		Description of resumed Inam.	From whom resumed.	On what account resumed.	Remarks.
	Arabic.	A. D.				
26	20th Rubee-ool-Akhir, Suba Teesain.	1796-97	The village of Waree, in the Julgaum Purguna.	Resumed at the death of Hajee Taz Khan Rohilay.	The death of the Inamdar.	
27	1st Shaban, Suba Teesain.	1796-97	The village of Takley, Prant Waee.	Mhadoo Rao Narayen Pinglay.	No reason assigned.....	A Surinjam resumed by the same Sunud.
28	29th Jummad-ool-Awul, Suba Teesain.	1796-97	The village of Mansee, Prant Poona.	Hurbajee Nursew Dhayngoonay.	Ditto ditto.	
29	25th Shaban, Teesa Teesain.	1798-99	The village of Seerolee, in the Soopa Purguna, and land in another village in the Baramuttee Kuryat.	Govind Rao Krishna Kalay.	Ditto ditto	A Surinjam also resumed by the same Sunud.

Poona, 2nd May 1853.

(Signed) T. A. Cowper, Captain,
Assistant Inam Commissioner.

(True copy)

(Signed) T. A. Cowper, Captain,
Inam Commissioner Northern Division.

Statement B (to accompany Captain T. A. COWPER, *Assistant Inam Commissioner's Letter No.* 163, *of the* 2*nd May* 1853*) of Inams continued to direct and to collateral Heirs, under the authority of the Peshwa's Government, by Sunuds or Orders, which are registered or quoted in forthcoming State Records, Diaries, Ledgers, &c.*

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
1	Khumsain	1749-50	Bringing to the account of the Government the sum of fifteen hundred rupees, being the amount of a relief (Nuzur) levied from Kwajeh Hamced Khan on sanctioning the continuance to him of the village of Toorkabad, in the province of Bedur, which had been held in Inam by his father Toork Taz Khan.
2	9th Zilkad, Eeheday Seetain.	1760-61	Sanctioning the continuance, on the payment of a relief (Nuzur) of five thousand rupees, of two Inam villages in territory recently conquered from the Nizam, and then held by the family of Syud Lushkur Khan.
3	16th Shaban, Suba Seetain.	1766-67	Sanctioning, on the payment of a relief (Nuzur) of one thousand rupees, the continuance of a share of the revenue of the village of Kemnair, Turuf Sattara, which had been held in Inam by Appajee Junardhun, and of his Surinjam holdings also, to his brother Balkrishna Junardhun.
4	4th Shuwal, Eeheday Subain.	1770-71	Sanctioning, on payment of a relief (Nuzur), the amount of which was afterwards fixed, the continuance to Morar Rao Jadhow Bhooinjkur of one-third of the Inam village of Bhooinj, Prant Waee, and of the Surinjam also, which had been held by his deceased father Kundeh Rao Jadhow.
5	20th Shaban, Seet Subain.	1775-76	Sanctioning, on payment of a relief (Nuzur) of five lakhs and one rupees, the continuance to Raghooputrao Raja Bahadoor of the Inams and Surinjams held by his deceased father Naro Shunkur Raja Bahadoor.
6	29th Rubee-ool-Awul, Suba Subain.	1776-77	Sanctioning, on payment of a relief (Nuzur) of four thousand and one rupees, the continuance to Hybutrao Athowlay of a share of the revenues

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A.D.	
			(Umul) of the villages of Sheersophul, in the Soopa Purguna, and of Gozayhuvee, in the Baramuttee Kuryat, which had been held in Inam by his deceased father Soobanrao Athowlay, and also of his late father's Surinjam.
7	14th Zilhej, Teesa Subain.	1778-79	Sanctioning the continuance to Madhow Rao Pettay of the Surinjams and the Inams which had been held by his late father, the Inams consisting of the villages of Chinchnora, Prant Waee, and Bhamoora, Prant Poona, and of land in the village of Kaeel, Prant Jooneer.
8	16th Rujub, Teesa Subain.	1778-79	Ordering the resumption of the Inams and large Surinjam then held by Raghooputrao Narayen Raja Bahadoor, and transferring them to Trimbuk Rao Narayen Raja Bahadoor (the brother of Raghooputrao) on payment of a relief (Nuzur) of ten lakhs and one rupees.
9	29th Rumzan, Teesa Subain.	1778-79	Sanctioning the continuance to Jeewan Rao Pundit Soomunt of the Surinjam and of half the Inam village of Riswair, in the Kunar district, which had been held by his father Myheeput Rao Pundit Soomunt, deceased.
10	3rd Shuwal, Teesa Subain.	1778-79	Continuing to Huree Pundit Veidhantee the Inam land in three villages of Purguna Indapoor, previously held by his father Govind Pundit, who had proceeded to Benares.
11	29th Rubee-ool-Awul, Teesa Subain.	1778-79	Continuing, on payment of a relief (Nuzur) of twenty thousand and one rupees, to Abdool Gazeekhan, five Inam villages in Purguna Umber, which had been held by his late father, Hakeem Mahomed Aleekhan.
12	6th Jummad-ool-Akhir, Sumaneen.	1779-80	Reciting the death, without male issue, of Bapoojee Luximon Poorundhuree, and the consequent resumption of two Inam villages which had been originally granted to his father, and which the Government now allow to be held by Myheeputrao Luximon, the younger brother of the deceased Bapoojee Luximon.

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
13	21st Rubee-ool-Akhair, Esunay Sumaneen.	1781-82	Continuing to Megusham Rao the Inam village and lands, and the Surinjam which had been held by his deceased father Nago Rao Megusham.
14	27th Zilhej, Sulas Sumaneen.	1782-83	Continuing to Vireshwar Bhut Kurvey three Inam villages (Madar, Kungola, and Bhadus), and Inam land in the village of Oorsah; which had been held by his deceased brother, and before his death attached by Government.
15	19th Rubee-ool-Awul, Arba Sumaneen.	1783-84	Continuing, on the payment of a relief (Nuzur) of eighteen thousand and one rupees, to Bulwunt Rao Kudum Banday, the Inams (two villages) and Surinjam which had been held by his late father Amroot Rao Kudum Banday.
16	25th Rujub, Khumus Sumaneen.	1784-85	Continuing, on the payment of a relief (Nuzur) of twenty thousand and one rupees, to Narayen Rao Dhumdheray the Inams (one village, and shares of revenue in three others) and Surinjam which had been held by his late father Trimbuk Rao Dhumdheray.
17	8th Rumzan, Teesa Sumaneen.	1788-89	Continuing to Anundrao Mulhar the Inams (shares in the revenue of two villages) and the Surinjam held by his late father Mulhar Rao Krishn.
18	9th Jummad-ool-Awul, Teesain.	1789-90	Sanctioning the continuance of Inam land in the village of Kooshturpun which had been held by Venkun Bhut bin Rajeshwar Bhut, deceased, to his nephew and sons-in-law.
19	20th Rumzan, Teesain.	1789-90	Deciding on a petition from certain relatives and connexions of the Inamdars of the village of Karungulla, in the Moolwar Purguna, and ordering the continuance of the village to the lineal male descendants of the original grantee, and to them alone, and directing the payment of thirty thousand rupees as relief (Nuzur) on the occasion.
20	Teesain	1789-90	Crediting to Government twenty-five thousand rupees, the amount of relief (Nuzur) paid by Rughoonath Rao Myral Pansé, to whom Government had con-

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
			tinued the Inams and Surinjams of his late father and uncle.
21	Eeheday Teesain..	1790-91	Bringing to account of Government fifty thousand rupees, the amount of relief (Nuzur) paid by Krishnajee Thorat, to whom the Inams and Surinjams of his late father Shuvajee Thorat had been continued.
22	1st Shuwal, Eeheday Teesain.	1790-91	Continuing to Jywuntrao Marunwar Futteh Jung Bahadoor a share in the Revenue (Umul) of the village of Chincholee, in the Patoda Purguna, which had been held in Inam, and also the Wutun which had been held by his late grandfather.
23	Arba Teesain	1793-94	Bringing to account of Government four thousand rupees, the amount of relief (Nuzur) levied from Sukojee Rajeh Seerkay, on his being permitted to succeed to his late father's Inams and Surinjams.
24	11th Sufur, Khumus Teesain.	1794-95	Issuing orders for the expenditure of twenty thousand and one rupees, to be levied from Krishna Rao Shaloonkay, as a relief (Nuzur), and on account of other dues, on his being permitted to succeed to his late father's Inam village and Surinjam.

(Signed) T. A. COWPER, Captain,
Assistant Inam Commissioner.

Poona, 2nd May 1853.

(True copy)

(Signed) T. A. COWPER, Captain,
Inam Commissioner Northern Division.

Statement C (to accompany Captain T. A. COWPER, *Assistant Inam Commissioner's Letter No.* 163, *of the 2nd May* 1853*) of Inams continued to adopted Sons, under the authority of the Peshwa's Government, by Sunuds or Orders, which are registered or quoted in forthcoming State Records, Diaries, Ledgers, &c.*

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
1	11th Jummad-ool-Awul, Teesa Subain.	1778-79	Sanctioning the continuance of the Inam village of Dyhurree, Prant Poona, to Mahadeo Rao, the adopted son of Tookajee Somwounshee, and ordering the payment of a relief (Nuzur) of one thousand rupees.
2	26th Rumzan, Teesa Subain.	1778-79	Authorising the continuance, on the payment of a relief (Nuzur) of six thousand rupees, of four villages which had been held in Inam by Syud Kootubdeen Mahomed Khan wulud Syud Noordee Mahomed Khan Bahadoor, and resumed on his death without male issue, to his adopted son Imamoodeen.
3	9th Rubee-ool-Awul Teesa Subain.	1778-79	Sanctioning the continuance of Inam land in the village of War, in the Asseer Purguna, to Kassee Dut, the adopted son of Myheshwar bin Rameshwar Janee.
4	16th Sufur, Esunay Sumaneen.	1781-82	Reciting the previous resumption of the village of Umber Khoord, in the Purguna of Nassick, in consequence of the death, without male issue, of the Inamdar Ramchunder Bhut Khairkur, and the adoption of a son by his widow, not having received the sanction of Government, and now according such sanction on the application of the adopted son himself (Moro Bhut), and allowing him to hold the village.
5	2nd Sufur, Arba Sumaneen.	1783-84	Sanctioning the continuance of three Inam villages in the Sattara district to Suddasew Pundit, the adopted son of Goonakur Pundit.
6	Arba Sumaneen ..	1783-84	Bringing to the account of Government twenty thousand rupees on account of a relief (Nuzur),

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
			or of a portion of a relief, paid on the Government according sanction to the continuance of the Inam village and land which had been held by the late Anundrao Ram to Ram Rao Anunt, adopted by the widow of the deceased Inamdar.
7	27th Zilhej, Seet Sumaneen.	1785-86	Sanctioning the continuance of the Inam village of Velloo, Prant Waee, which had been held by Burhanjee Mohitay, deceased, to Soajee Mohitay, adopted by the widow of the late Inamdar.
8	Teesa Sumaneen..	1788-89	Bringing to Government account eighty thousand and one rupees, the amount of relief (Nuzur) levied on the recognition by Government of Rung Rao as the adopted son of Myheeputrao Luximon Poorundhuree, and on allowing him to succeed to the Inams and Surinjam held by his deceased adoptive father.
9	9th Rubee-ool-Akhir, Teesa Sumaneen.	1788-89	Acknowledging the receipt by Government of fifty-five thousand rupees, the amount of relief (Nuzur) paid on the continuance of the Inam villages and Wutun of the late Deoshet Veerkur to Mahadshet, adopted by the widow of the deceased Inamdar.
10	10th Rumzan, Teesain.	1789-90	Sanctioning the continuance of Inam lands in three villages, and of the shares of the revenues (Umul) of two others in the Purgunas of Dindoree, Wunn, and Nassick, to Moro Punt, adopted by the widow of the former Inamdar, Mahadowrao Bullal Peteh.
11	7th Mohurum, Teesain.	1789-90	Sanctioning, on payment of a relief (Nuzur) of one thousand rupees, the continuance of Inam land in the village of Malgoond, and of a share of the revenue (Umul) of the village of Nimboree and of other lands, all of which had been held by the late Sudasew Rughoonath Rajwarray, to his adopted son Rughoonath.
12	Teesain	1789-90	Sanctioning, on payment of a relief (Nuzur) of four thousand rupees, the continuance of the Inams and Surinjam which had been held by the late

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
			Deorao Kassee Mootalik Nyadish, to his adopted son Kassee Deorao.
13	5th Zilkad, Arba Teesain.	1793-94	Sanctioning an adoption by the widow of the late Appajee Ram Dabholkur, and continuing to the adopted son, Ramrao Appajee, the three Inam villages, exclusive of certain shares of revenue, belonging to other parties, which had been held by Appajee Ram.
14	4th Rubee-ool-Akhir, Suba Teesain,	1796-97	Sanctioning the continuance of Inam land in the village of Keshow Rowaché Patun, in Hindoostan, to the widow of Dinnanath bin Purmanund Kirvaree, and authorising her adopting a son to inherit the Inam; also exempting the widow from the payment of any relief (Nuzur) on the occasion.
15	30th Sufur, Suba Myatain.	1806-07	Continuing, on payment of a relief (Nuzur) of twenty lakhs and one rupees, the Inams and large Surinjam held by the late Nursing Khunderao Vinchoorkur, to his adopted son Wittulrao Nursing.

(Signed) T. A. COWPER, Captain,
Assistant Inam Commissioner.

Poona, 2nd May 1853.

(True copy)

(Signed) T. A. COWPER, Captain,
Inam Commissioner Northern Division.

Statement D (to accompany Captain T. A. COWPER, *Assistant Inam Commissioner's Letter No.* 163, *of the 2nd May* 1853) *of Inams transferred by gift or sale, under the authority of the Peshwa's Government, by Sunuds or Orders, which are quoted or registered in forthcoming State Records, Diaries, Ledgers, &c.*

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
1	10th Zilhej, Khumus Seetain.	1764-65	Reciting an application from Moro Gopal to be permitted to hold in Inam the village of Kurrosee, in the Talooka of Chass, which had been transferred to him in gift by the former Inamdar, Krishna Rao Mhadoo Joshee, and ordering the village to be held in Inam accordingly.
2	7th Rumzan, Eeheday Subain.	1770-71	Sanctioning the gift in Inam of some land in the Inam village of Chandooree, in the Nassick Purguna, by the holders of the village, to Bajee Luximon Joshee.
3	21st Rubee-ool-Akhir, Eeheday Subain.	1770-71	Authorising a transfer of the Inam village of Rahatonree, in the Kallian Prant, previously made by Rukmabaee, the widow of Gopal Mhadoo Goray (who had been granted it on the death of her husband in battle), to Raojee Huree Bhiday.
4	5th Zilhej, Eeheday Subain.	1770-71	Sanctioning the transfer of 3 beegas of Inam land in the village of Sap, in the Bhewndy Prant, which had been given by Survootum Shunkur Phurkay to Rambhut bin Govind Bhut Phatuk.
5	20th Zilhej, Eeheday Subain.	1770-71	Sanctioning the transfer of a share of the revenue (Umul) of the town of Halgaum, in the Sewgaum Purguna, which had been held in Inam by Sukoobaee Sinday, and made over by her to Kundeh Rao Naique Nimbalkur.
6	24th Rujub, Esunay Subain.	1771-72	Sanctioning the transfer of Inam land in the town of Kullian, in the Kullian Prant, which had been held by Ramchunder Krishnarao Joshee, and given by him to Gungadhur Moreshwur Golay.

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
7	11th Rubee-ool-Awul, Sula Subain.	1772-73	Sanctioning the transfer of a share of the revenue (Umul) of the village of Bendalla, in the Umber Purguna, which had been held in Inam by Sugoonabaee Sinday, and given by her to Moro Nurhur Bodray and Vishnoo Nurhur Bodray.
8	4th Zilhej, Sulas Subain.	1772-73	Sanctioning a transfer similar to the above, but in another village, by the same person to Moro Bapoojee Phurkey, Gungadhur Abajee Phurkay, Huree Bullal Phurkay, and Dhondoo Bullal Phurkay.
9	9th Jummad-ool-Awul, Arba Subain.	1773-74	Sanctioning the gift of some Inam land in the village of Khanowree, in the Poona Prant, made by Luximon Chintamun Dhurphullay to Mhadoo Rao Krishn Pansay.
10	Arba Subain	1773-74	Bringing to account of Government two hundred rupees, the amount of relief (Nuzur) paid by Myheeput Rao Krishna Chandorekur, on his being permitted to purchase, for four hundred rupees, from Luximon Chintamun Dhurphullay, some Inam land in the village of Bhambowra, in the Poona Prant.
11	10th Shuwal, Khumus Subain.	1774-75	Sanctioning a gift in Inam made to Anundbhut bin Dhondbhut Chitrao and to Kasseebhut bin Dhondbhut Chitrao, by Withul Sewdeo Vinchorekur, of some Inam land in his Inam village of Saikhair, in the Nassick Purguna.
12	12th Rujub, Suba Subain.	1776-77	Sanctioning the gift of some Inam land in the village of Bhooinj, made by Bulwunt Bajee Rao to Venkajee Mankeshwur Uslaykur.
13	5th Jummad-ool-Awul, Suman Subain.	1777-78	Sanctioning the gift in Inam, by Tookajee bin Suntojee Somwounshee, of some land in his Inam village of Dyhurree, in the Mawul Turuf, to Myheeput Rao Krishna Sathay.
14	9th Shaban, Seet Sumaneen.	1785-86	Sanctioning the gift by Balajee Junardhun (Nana Furnavese) of some Inam land in the town of Waee, to Rajeshwarbhut bin Konherbhut Nanderkur.

Number.	Date of the Registry of the Sunud or other Document referred to.		Substance of the Sunud, as registered or quoted in the State Records.
	Arabic.	A. D.	
15	1st Rubee-ool-Awul, Suba Sumaneen.	1786-87	Sanctioning the sale by Daood Khan and Hyder Khan of their Inam village of Khoomshet, in the Jooneer Prant, to Balajee Mhadoo Bhirray, for the sum of rupees fifteen thousand and one.
16	8th Shuwal, Esunay Teesain.	1791-92	Sanctioning the gift by Balajee Junardhun (Nana Furnavese) of some Inam land in the village of Kurrundee, in the Tarneer Purguna, to Suznajee bin Yessajee Goorow Waghmarah.
17	8th Shuwal, Sulas Teesain.	1792-93	Sanctioning the gift by Eshwunt Gungadhur Chunderchoor, of his Inam village of Hewrah Choundal, in the Umber Purguna, to Abbajee Gungadhur Wanowlay.
18	2nd Rumzan, Sulas Teesain.	1792-93	Sanctioning the sale by Mahomed Hoosein-ood-deen wulud Shaik Meerao-ood-deen and others, for the sum of rupees one thousand seven hundred and one, of Inam land in the town of Akoleh, in the Akoleh Purguna, to Krishnajee Ambadas Sunt.

(Signed) T. A. COWPER, Captain,
Assistant Inam Commissioner.

Poona, 2nd May 1853.

(True copy)

(Signed) T. A. COWPER, Captain,
Inam Commissioner Northern Division.

No. 62 of 1855.

Territorial Department, Revenue.

To the Honorable the Court of Directors,
For Affairs of the Honorable East India Company, London.

Dated Bombay, 9th July 1855.

Honorable Sirs,—We do ourselves the honour to forward herewith copy of a Memorandum which, at the request of our Officiating Chief Secretary, Captain Cowper, Inam Commissioner Northern Division, has prepared, explanatory of the practice as regards admitting adoptions to Inams followed in this Presidency.

2. Your Honorable Court, acting on the opinion of the Government of India, have directed (revenue despatch No. 5, dated 23rd March 1853, paragraph 3) that there should be "no alteration in the existing practice in this respect," being evidently impressed with the opinion that the practice has been to admit of adoptions to Inam estates without exacting the consent of Government to such adoption.

3. Captain Cowper, it will be perceived, has, in his very complete and able Memorandum, fully shown that, from the introduction of the British Government in 1817, until 1825, no adoption to an Inam was allowed without the previous consent of Government. In 1825 an ambiguous order was issued, directing that "children adopted with such forms and sanctions as have been usual should succeed to Inams or whatever may be considered private property." This order produced much irregularity in practice, but subsequent to 1836 it would appear that the consent of Government has always been considered essential.

4. The practice of the Peshwa's Government has been illustrated by Captain Cowper by many examples, placing beyond all doubt that the consent of Government to adoptions was, during the supremacy of the Murathas, rigidly insisted on in all cases of adoption (and often in cases of regular lineal succession), and generally, if allowed, purchased by the payment of a considerable Nuzur.

5. In forwarding a copy of Captain Cowper's Memorandum, we beg to inform you that we consider the "existing practice," which your Honorable Court have enjoined us to follow, to involve the necessity of obtaining the consent of Government to *all* adoptions of heirs to alienated State revenues.

We have the honour to be, &c.

(Signed) Elphinstone.
" J. G. Lumsden.
" A. Malet.

Bombay Castle, 9th July 1855.

Extract Paragraphs 3 *and* 4 *of a Despatch from the Honorable the Court of Directors, No.* 3, *dated* 12*th March* 1856.

Letter dated 9th July, No. 62 of 1855.

Forwarding a Memo. by Captain Cowper, Inam Commissioner in the Northern Division, explanatory of the practice as regards admitting adoptions to Inams.

3. The information brought together in the valuable Memorandum prepared by Captain Cowper conclusively establishes that under the government of the Peshwas the consent of the ruling power was invariably required for the adoption of heirs to all rent-free holdings, as well as for the alienation of such holdings from the line of the original grantee; that the same practice was maintained by the British Government from 1817 to 1825, in which year an order in regard to adoptions was issued so ambiguously expressed as to lead to much doubt and uncertainty, and to introduce a want of uniformity in disposing of such questions; and that from about the year 1836 the original principle of requiring the consent of Government to such adoptions was revived, and has since that time been steadily adhered to.

4. Under these circumstances, we approve the interpretation which you have put on our orders to follow the existing practice in this respect, (despatch dated 23rd March, No. 5 of 1853) as "involving the necessity of obtaining the consent of Government to all adoptions of heirs to alienated State revenues."

No. 59 OF 1856.

REVENUE DEPARTMENT.

From Captain T. A. COWPER,
Officiating Special Commissioner,

To H. YOUNG, Esq.,
Officiating Chief Secretary to Government, Bombay.

Dated Bombay, 5*th May* 1856.

SIR,—In paragraph 24 of my Memorandum No. 569 A, dated the 26th May 1855, I stated that the sanction of Government to all adoptions, in virtue of which property held from the State was sought to be inherited, had always been considered essential during the Peshwa's rule, and that the same practice had been followed under the British Government until May 1825, when a directly contrary principle appeared, to use the

words of the late Inam Commissioner, Mr. Hart, to have been first enunciated "by Captain Robertson (who was mistaken in the supposed facts on which he grounded it); to have been submitted without more investigation than he could have made in *one day* by Mr. Chaplin; and to have been immediately adopted by Government," without, in so far as the records show, any further inquiry.

2. In the same Memorandum I showed that there were reasons for believing the order passed by Government on that occasion to have been "either issued under some complete mistake or misapprehension, or that, in describing the necessity of 'such forms and sanctions as may have been usual,' the sanction of the ruling power was understood to be included as a matter of course"; and I further showed that Mr. Chaplin could not in all probability ever have construed the Government order in any other way.

3. I have within the last few days become cognisant of that which places it beyond the possibility of doubt that Captain Robertson's letter, on which the Government order of 1825 was issued, either was intended to convey an opinion precisely the reverse of that which it has hitherto been supposed, and certainly does appear to uphold, or else that it conveyed one now shown to be perfectly worthless, not merely on the evidence of former universal practice, but equally so on that afforded by his own emphatic contradiction of it, recorded six years afterwards.

4. In 1831 Government were requested to recognise an adoption of a son to succeed to certain Inam, Surinjam, and other holdings of the late Jywuntrao Muntree. The question was referred for the opinion of several Collectors, of whom Captain Robertson, then Collector of Ahmednuggur, was one. His reply (No. 354, dated 24th August 1831, paragraph 2) to the Government reference is below transcribed :—

> "My opinion is, that to enable the Hindoo son to inherit the possession of his adoptive father, in any country or jurisdiction of India, the sanction of the Government of that country to the act of adoption is required by the Hindoo law as a *sine quâ non* of legal title; and as we also dispense justice to Hindoos by their own laws, the adopted son of the Muntree has, therefore, no title to the succession unless Government be pleased as a favour to acknowledge and admit it."

5. I have also to bring to the notice of Government an extraordinary illustration of the want of system and the error which have prevailed in the disposal of applications to be permitted to adopt.

6. On the 4th October 1831, the following Minute was recorded in the Political Department by the Governor, the Earl of Clare. How or in what this Minute had its origin cannot be ascertained. It is recorded

in a miscellaneous political volume, written on a small piece of letter paper, and has no apparent connection with any of the proceedings with which it is bound up:—

"From several papers which have lately come before me, it appears that the Collectors do not exactly know in what cases Government allows adoptions, and misconception on this subject has, I believe, arisen from the late dissensions respecting Nuzurana; and to remove all doubt I think that the instructions of Government dated June 3rd 1825 should be republished for the information of the Collectors and all concerned."

7. Consequent on the above Minute, the following circular instructions were under date the 24th October 1831 issued in each of the departments:—

"It having come to the knowledge of Government that some doubt exists as to the particular cases in which adoptions are allowed, I am directed by the Right Honorable the Governor in Council to communicate to you the following instructions for your guidance.

"2. As a general rule in the Deccan, Government admits that children adopted with such forms and sanctions as may have been usual should succeed to Inam lands, or whatever may be considered private property.

"3. With regard to Jagheer, no adoption can have any effect unless it is expressly so declared by the Government."

8. Fifteen days later, on the 8th November 1831, Government, in their Revenue Secretary's letter No. 3647, informed the Collector of Ahmednuggur that an adoption of a son by a widow who then held in Inam the village of Amburkhoord, in the Nassick Purguna, "may be permitted, under a clear understanding that it is not to confer any title to the village alluded to."

I have the honour to be, &c.

(Signed) T. A. Cowper, Captain,
Officiating Special Commissioner.

No. 1787 of 1856.

Territorial Department, Revenue.

To the Officiating Special Commissioner.

Copy of the Resolution passed by Government under date 23rd May 1856, on a Letter from the Officiating Special Commissioner, No. 59, dated 5th May 1856, bringing to notice certain circumstances connected with the Orders formerly issued by Government, and the practice observed regarding Adoptions affecting the Public Revenue.

These further researches completely corroborate the opinion already arrived at by Captain Cowper, and concurred in by Government and the Honorable Court, to whom copy of this communication should be forwarded.

(Signed) H. Young,
Officiating Chief Secretary to Government.

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